

# Governing Board Meeting

## *Agenda and Meeting Information*

*February 23, 2021*

*9:00 a.m.*

**Brooksville Office**

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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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 the Human Resources Office Chief, at 2379 Broad St., Brooksville, FL 34604-6899; telephone (352) 796-7211 or 1-800-423-1476 (FL only), ext. 4747; 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

**FEBRUARY 23, 2021  
9:00 AM**

**Brooksville Office**

*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 Additions/Deletions to Agenda
- 1.4 Public Input for Issues Not Listed on the Published Agenda

## **2. CONSENT AGENDA**

- 2.1 **Finance/Outreach and Planning Committee:** 2021 Consolidated Annual Report
- 2.2 **Operations, Lands and Resource Monitoring Committee:** Decline Right of First Refusal to Acquire the Remainder Fee Interest in a Conservation Easement, Green Swamp Wilderness Preserve, SWF Parcel No. 10-200-1100C, Bronson Ranch
- 2.3 **Operations, Lands and Resource Monitoring Committee:** Amendment to Access Easement for the P-6 Canal Structure SWF Parcel No. 20-006-101P
- 2.4 **Regulation Committee:** WUP No. 20001156.013, Bay Laurel Center Public Water Supply System / Bay Laurel Center Community Development District and On Top of the World Communities, LLC (Marion County)
- 2.5 **Regulation Committee:** WUP No. 20009741.021, Pine Level Property / Mosaic Fertilizer, LLC and Family Dynamics, Inc. (Manatee County)
- 2.6 **General Counsel's Report:** Authorization to Issue Administrative Complaint and Order – Mining Activities Conducted without Water Use Permit – Watermelon Pit, LLC, and JDI Farms, Inc. – CT No. 404443 – Charlotte County
- 2.7 **General Counsel's Report:** Approval of Consent Order Between SWFWMD and Abdelijalil and Cindy Lou Bekkach - Unauthorized Construction - CT No. 380586 - Polk County
- 2.8 **General Counsel's Report:** Approval of Consent Order Between SWFWMD and Arthur L. Schaer Revocable Trust - Unauthorized Construction - CT No. 383658 - Pasco County
- 2.9 **General Counsel's Report:** Approval of Consent Between SWFWMD and Travel Imagination LLC - Unauthorized Construction - CT Number 40329 - Manatee County
- 2.10 **General Counsel's Report:** Approval of Consent Order Between SWFWMD and Econo Boat and RV Storage of Westchase, LLC - Unauthorized Construction - CT No. 405894 - Pinellas County
- 2.11 **Executive Director's Report:** Approve Governing Board Minutes - January 26, 2021

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

- 3.1 **Discussion:** Information Only: Consent Item(s) Moved to Discussion
- 3.2 **Discussion:** Information Only: 2021 Legislative Update
- 3.3 **Submit & File:** Information Only: Budget Transfer Report

#### **4. RESOURCE MANGEMENT COMMITTEE**

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

4.2 **Discussion:** Information Only: Northern Tampa Bay Recovery Update

#### **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

#### **6. REGULATION COMMITTEE**

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

6.2 **Discussion:** Information Only: 404 Assumption Update

6.3 **Discussion:** Action Item: 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: Environmental 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 January 12, 2021

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
Michelle Williamson

REGULATION COMMITTEE
Roger Germann
Joel Schleicher
Rebecca Smith

FINANCE/OUTREACH AND PLANNING COMMITTEE
James Murphy
Rebecca Smith
Ed Armstrong
Ashley Bell Barnett

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

STANDING COMMITTEE LIAISONS	
Agricultural and Green Industry Advisory Committee	Michelle Williamson
Environmental Advisory Committee	John Mitten
Industrial Advisory Committee	Ashley Bell Barnett
Public Supply Advisory Committee	Ed Armstrong
Well Drillers Advisory Committee	Seth Weightman

OTHER LIAISONS	
Central Florida Water Initiative	James 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**

2/09/2021

**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 (Audio Visual Communication)  
February 23, 2021 – 9:00 a.m., Brooksville Office (Audio Visual Communication)  
March 23, 2021 – 9:00 a.m., Brooksville Office (Audio Visual Communication)  
April 27, 2021 – 9:00 a.m., Tampa Office  
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 (canceled), 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 (Audio Visual Communication), 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 (Audio Visual Communication)

2021 – February 4 – Southern Region, Brooksville Office (Audio Visual Communication)

2021 – February 10 – Heartland Region, Brooksville Office (Audio Visual Communication)

2021 – February 11 – Tampa Bay Region, Brooksville Office (Audio Visual Communication)

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**

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

Brooksville Office – 2379 Broad Street, Brooksville, FL 34604

Sarasota County Commission Chambers – 4000 South Tamiami Trail, Venice

34293 Tampa Office – 7601 US Highway 301 North, Tampa, FL 33637

## 1. Public Meeting

Governing Board Meeting  
February 23, 2021

1. CONVENE PUBLIC MEETING

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1.2 Invocation and Pledge of Allegiance.....5

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1.4 Public Input for Issues Not Listed on the Agenda .....7

**CONVENE PUBLIC MEETING**

**February 23, 2021**

**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**

**February 23, 2021**

**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**

**February 23, 2021**

**Additions/Deletions to Agenda**

According to Section 120.525(2), Florida Statutes, additions to the published agenda will only be made for "good cause" as determined by the "person designated to preside." Based upon that authority, the Chair has determined that good cause exists to make certain changes to the agenda. These changes are being made in order to permit the Governing Board to efficiently accomplish necessary public business at this meeting and to reflect the items on the agenda that have been requested or suggested to be deleted, revised, supplemented or postponed.

**ADDITIONS:** The items that have been added to the agenda were received by the District after publication of the regular agenda. The Board was provided with the information filed and the District staff's analyses of these matters. Staff has determined that action must be taken on these items prior to the next Board meeting. Therefore, it is the District staff's recommendation that good cause has been demonstrated and should be considered during the Governing Board's meeting.

**Staff Recommendation:**

Approve the recommended additions and deletions to the published agenda if necessary.

**Presenter:**

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

**CONVENE PUBLIC MEETING**

**February 23, 2021**

**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

February 23, 2021

## 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	<b>Finance/Outreach and Planning Committee:</b> 2021 Consolidated Annual Report .....	8
2.2	<b>Operations, Lands and Resource Monitoring Committee:</b> Decline Right of First Refusal to Acquire the Remainder Fee Interest in a Conservation Easement, Green Swamp Wilderness Preserve, SWF Parcel No. 10-200-1100C, Bronson Ranch.....	10
2.3	<b>Operations, Lands and Resource Monitoring Committee:</b> Amendment to Access Easement for the P-6 Canal Structure SWF Parcel No. 20-006-101P .....	14
2.4	<b>Regulation Committee:</b> WUP No. 20001156.013, Bay Laurel Center Public Water Supply System / Bay Laurel Center Community Development District and On Top of the World Communities, LLC (Marion County).....	22
2.5	<b>Regulation Committee:</b> WUP No. 20009741.021, Pine Level Property / Mosaic Fertilizer, LLC and Family Dynamics, Inc. (Manatee County) .....	39
2.6	<b>General Counsel's Report:</b> Authorization to Issue Administrative Complaint and Order – Mining Activities Conducted without Water Use Permit – Watermelon Pit, LLC, and JDI Farms, Inc. – CT No. 404443 – Charlotte County .....	55
2.7	<b>General Counsel's Report:</b> Approval of Consent Order Between SWFWMD and Abdelijalil and Cindy Lou Bekkach - Unauthorized Construction - CT No. 380586 - Polk County .....	57
2.8	<b>General Counsel's Report:</b> Approval of Consent Order Between SWFWMD and Arthur L. Schaer Revocable Trust - Unauthorized Construction - CT No. 383658 – Pasco County .....	67
2.9	<b>General Counsel's Report:</b> Approval of Consent Between SWFWMD and Travel Imagination LLC - Unauthorized Construction - CT Number 40329 - Manatee County .....	77
2.10	<b>General Counsel's Report:</b> Approval of Consent Order Between SWFWMD and Econo Boat and RV Storage of Westchase, LLC - Unauthorized Construction - CT No. 405894 - Pinellas County.....	86
2.11	<b>Executive Director's Report:</b> Approve Governing Board Minutes - January 26, 2021.....	94

## CONSENT AGENDA

February 23, 2021

### Finance/Outreach and Planning Committee: 2021 Consolidated Annual Report

#### *Purpose*

To seek Board approval for the District's 2021 Consolidated Annual Report (CAR). The completed report is provided with the Board packet for this meeting. Distribution of the report is required by March 1, 2021.

#### *Background/History*

Section 373.036, Florida Statutes (F.S.), requires the water management districts to prepare a "Consolidated Water Management District Annual Report." The report must include the following:

1. The Water Management District Performance Measures Annual Report
2. The Minimum Flows and Levels (MFLs) Priority List and Schedule
3. The Minimum Flows and Levels/Water Quality Grade for Projects Report
4. The Annual Five-Year Capital Improvements Plan
5. The Alternative Water Supplies Annual Report
6. The Five-Year Water Resource Development Work Program
7. The Polk Regional Water Cooperative Status Report
8. The Florida Forever Work Plan
9. The Mitigation Donation Annual Report
10. The Strategic Plan 2021-2025 (updated February 2021) and Annual Work Plan

The legislation requires the report be submitted by March 1 of each year to the Governor, President of the Senate, Speaker of the House of Representatives and the Department of Environmental Protection (DEP). In addition, "copies must be provided to the chairs of all legislative committees having substantive or fiscal jurisdiction over the districts and the governing board of each county in the district having jurisdiction or deriving any funds for operations of the district. Copies of the consolidated annual report must be made available to the public, either in printed or electronic format."

The CAR was presented and discussed at the Board's January meeting. Since this meeting, the Strategic Plan and Strategic Plan Annual Work Plan were updated to reflect results from the 2020 MFL status assessment. Language on page 7 of the Strategic Plan stating three-quarters of the established MFLs as met was changed to 90 percent of the established MFLs. Also, page 11 noting the District has adopted MFLs for 124 priority water bodies in the Northern Tampa Bay Water Use Caution Area (NTBWUCA) and nearly 90 percent of these MFLs is being met was changed to 97 percent as met. In the Strategic Plan Annual Work Plan (Annual Work Plan), the statement "the assessment also documented improved status of MFLs established for 5 wetlands, 17 lakes and 1 spring within the NTBWUCA" on page 10-5 was changed to reflect 16 lakes not 17 for the NTBWUCA.

The Annual Work Plan was also revised to add clarifying language for the status of water conservation assessments. See page 10-2 for the language. In addition, the tables for the MFL/Water Quality Grade for Projects were updated to remove a completed project, N945 – WRWSA Regional Water Supply Plan Update. Also, for the Polk Regional Cooperative Status Report, a page was added providing report context and summarizing past and current project activity.

The CAR is provided under separate cover.

Staff Recommendation:

Approve the 2021 Consolidated Annual Report and its transmittal.

Presenter:

Trisha Neasman, Planning Lead

## CONSENT AGENDA

February 23, 2021

**Operations, Lands and Resource Monitoring Committee: Decline Right of First Refusal to Acquire the Remainder Fee Interest in a Conservation Easement, Green Swamp Wilderness Preserve, SWF Parcel No. 10-200-1100C, Bronson Ranch**

### *Purpose*

The purpose of this item is to recommend the Governing Board decline the right of first refusal to purchase a remainder fee interest over a portion of SWF Parcel 10-200-1100C encumbered by a District conservation easement obtained in 1996 located in Lake County within the District's Green Swamp Wilderness Preserve Project. The original conservation easement consisted of 937 acres, and the portion offered for sale consists of approximately 430 acres over the subject property. General location and property maps are included as Exhibits 1 and 2.

### *Background/History*

The District identifies lands eligible for acquisition through the Board-approved Florida Forever Work Plan. In the work plan, lands are identified for acquisition as fee simple acquisition or acquisition of less than fee interest. Less than fee acquisitions consist of the purchase of certain rights, such as development rights, that are intended to ensure that natural systems and water resources are protected in their existing state in perpetuity, via a conservation easement. In a typical negotiation of a conservation easement acquisition, the District retains a "right of first refusal" which is perpetual, running with the land, and remaining in effect regardless if the District has declined a previous offering.

The District acquired a conservation easement over the Bronson Ranch property in 1996 that originally covered 937 acres which contained a right of first refusal. That right of first refusal requires notification of the Grantor's (owner's) intent to sell the property, or any portion thereof, and further requires that an offer be extended to sell the property to the District. The Grantor intends to sell 430 acres of the Bronson Ranch.

The property is located at 7014 Calvin Lee Road in Groveland. The owners have offered to sell the property to the District for \$1,740,000 which is \$4,047 per gross acre. The property is improved with a new single-family residence constructed in 2019 constructed consistent with the conservation easement terms. The Lake County Property Appraiser's records indicate that the "assessed or just value" is currently set at \$975,644. If the property owners decide to sell at a price lower than the amount offered for consideration of this right of first refusal, they will have to again offer the property to the District at the new price.

District staff evaluated the opportunity to purchase the remainder fee interest and determined that the existing conservation easement is sufficient to meet our intended natural systems and water resource benefits.

### *Benefit/Costs*

The benefits of acquiring the remainder fee interest would be minimal.

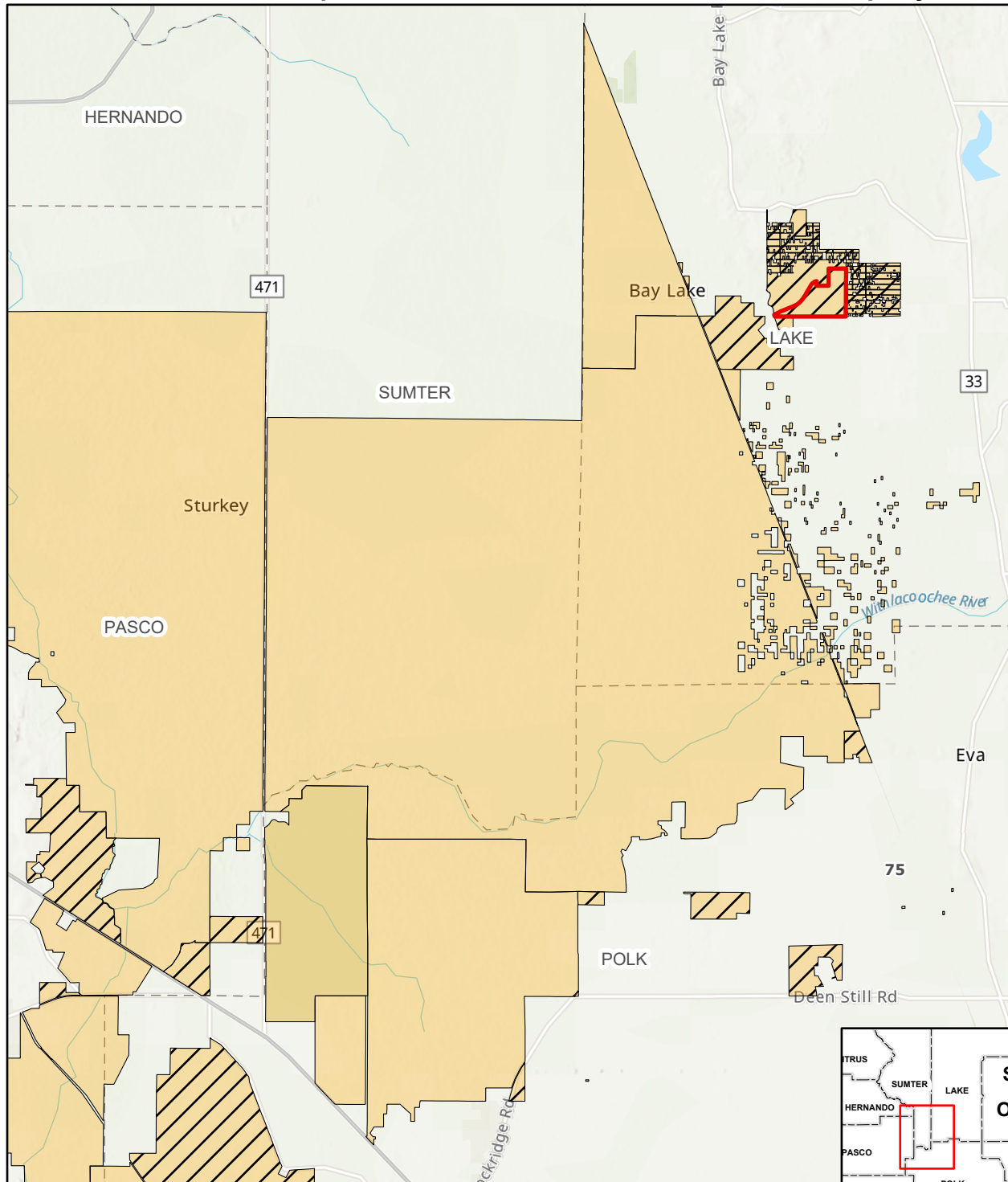
Staff Recommendation:

1. Approve declining the right of first refusal to purchase the remainder fee interest over SWF Parcel No. 10-200-1100C encumbered by a District conservation easement.
2. Authorize the Executive Director to execute the necessary documents to decline the right of first refusal on SWF Parcel 10-200-1100C.

Presenter:

Ellen Morrison, Land Resources Bureau Chief

# **Exhibit 1 – General Location Map** **Green Swamp Wilderness Preserve - Dennis Bronson Property**



Esri, CGIAR, USGS, FDEP, Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, NPS, FDEP, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA

- Dennis Bronson Property
- Fee Simple
- Conservation Easement

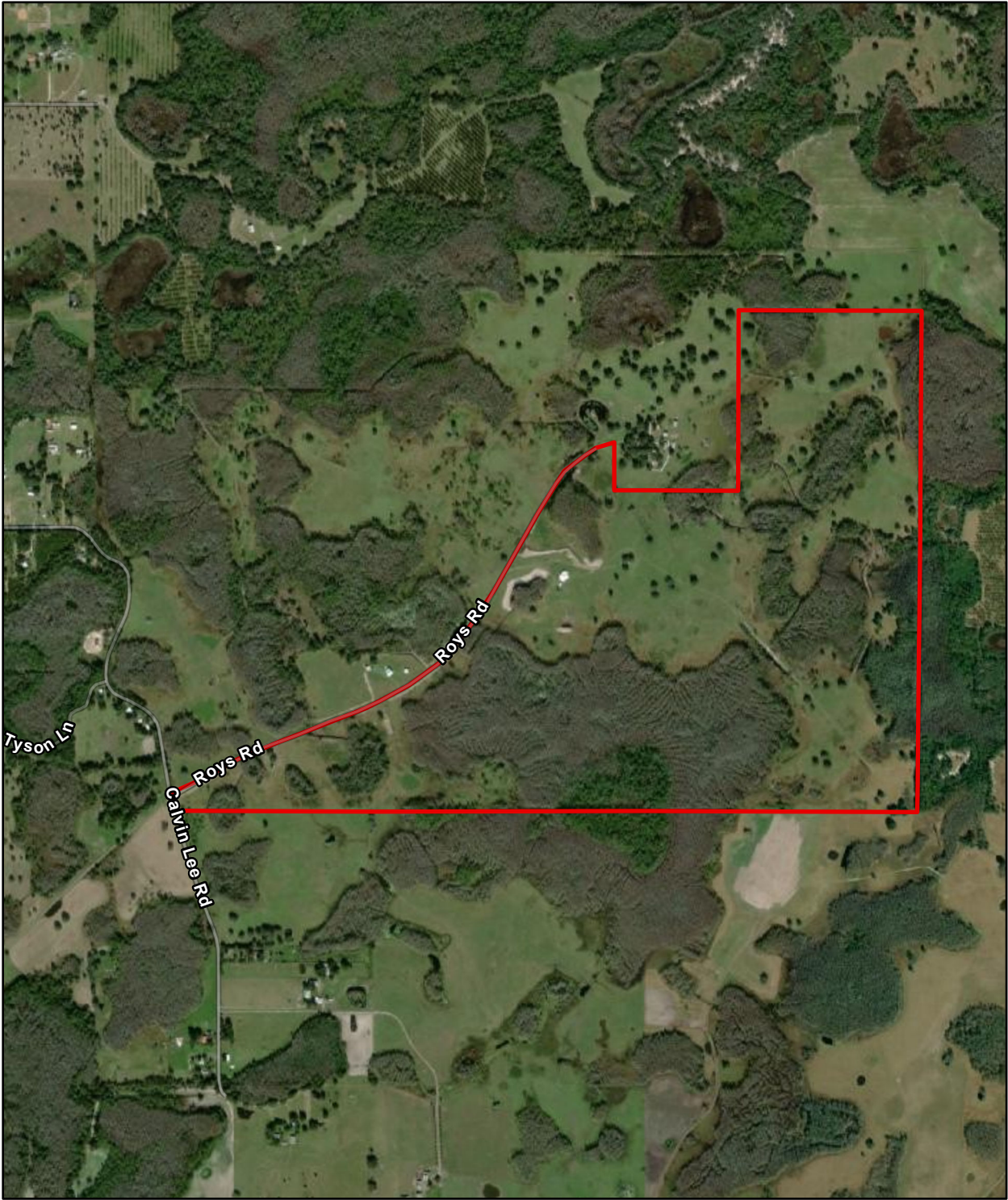
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**Southwest Florida**  
 Water Management District

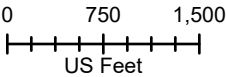


Exhibit 2 – Property Map  
Green Swamp Wilderness Preserve - Dennis Bronson Property



USDA FSA, GeoEye, Maxar, Esri Community Maps Contributors, FDEP, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

 Dennis Bronson Property





## CONSENT AGENDA

February 23, 2021

### Operations, Lands and Resource Monitoring Committee: Amendment to Access Easement for the P-6 Canal Structure SWF Parcel No. 20-006-101P

#### *Purpose*

Sloan Engineering requests the relocation of an existing District-owned Access Easement which provides access to the District's P-6 structure. The requested relocation of the Access Easement is necessary due to development of the Canton Park subdivision property pursuant to an Environmental Resource Permit Application and will realign the Access Easement with a proposed roadway into the development. An aerial and location map are included as Exhibit 1 and Exhibit 2, respectively. This relocation can be accomplished with an amendment to the existing Access Easement.

#### *Background/History*

The P-6 structure and canal located between Lake Smart and Lake Fannie in Winter Haven was constructed in 1965 by the John F. Johnson Construction Company at a cost of \$57,000. The structure is configured as a concrete drop spillway with a single lift gate. The canal upstream from the P-6 structure runs west to Lake Smart, and downstream the canal runs east to Lake Fannie. The P-6 structure site is owned by the District with perpetual easements for the canal right-of-way and access. The Access Easement being requested for relocation is a perpetual easement from Buckeye Ridge Road through privately owned property.

#### *Benefits/Costs*

The existing Access Easement is an unimproved pasture road that floods after heavy rains. The District must maintain or improve it's current level of access to ensure the continued operation and maintenance of the P-6 structure and canal. The relocation of the existing Access Easement will be over a paved access road which will benefit the District by alleviating flooding concerns and related access issues with the existing access road, thus improving our current level of access. The District's Operations staff has reviewed and approved the relocated easement identified in the site plan dated November 11, 2019. There is no cost to the District associated

#### Staff Recommendation:

Approve and accept the Amended Access Easement for relocation of existing access.

#### Presenter:






Ellen Morrison, Land Resources Bureau Chief

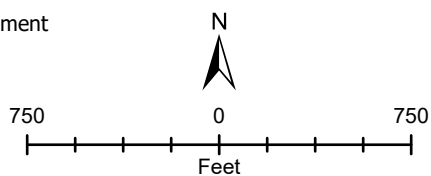
RECAP EXHIBIT 1

P-6 Access Easement Release and Relocation SWF Parcel No. 20-006-101P



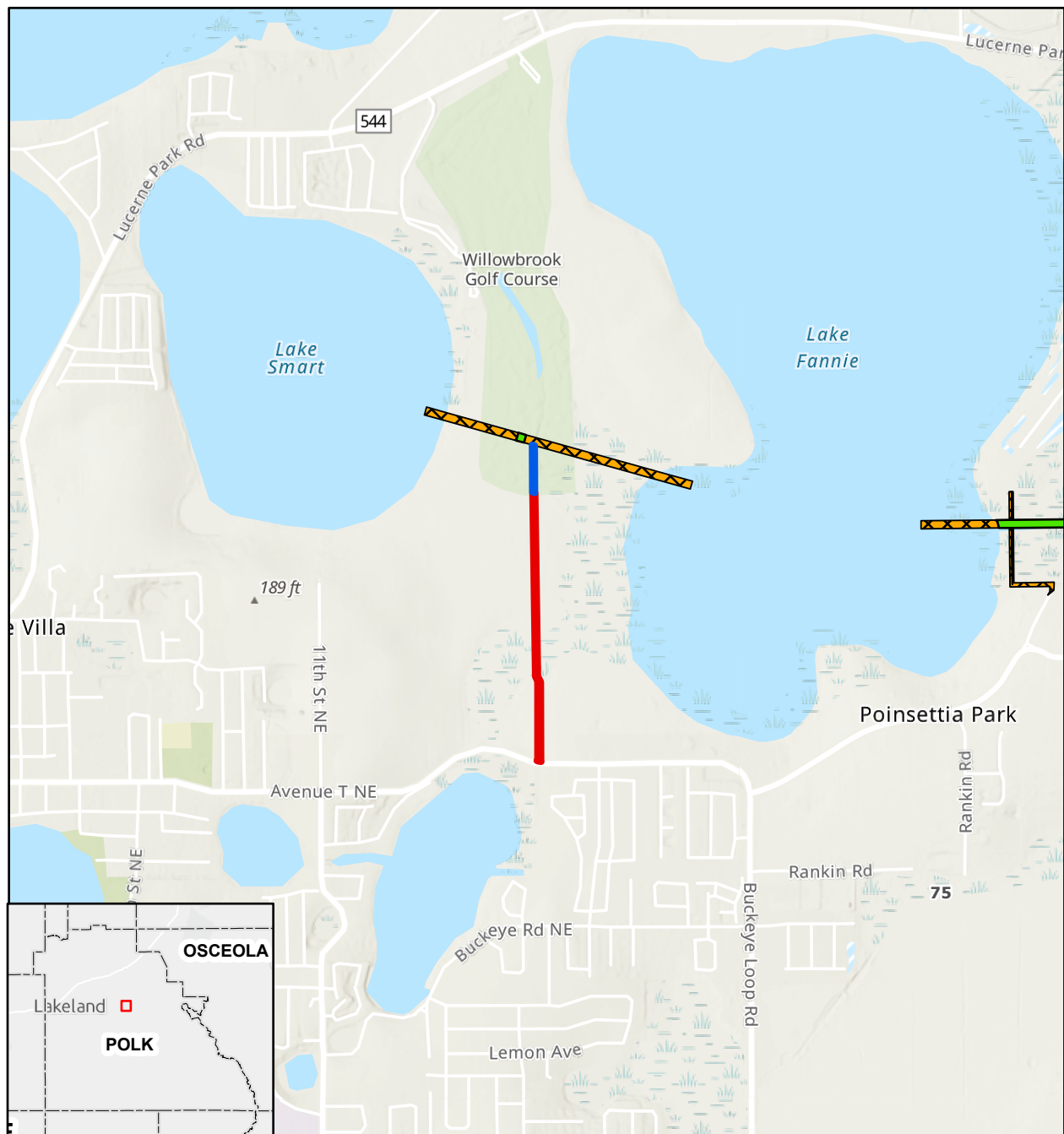
USDA FSA, GeoEye, Maxar, Esri Community Maps Contributors, University of South Florida, FDEP, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

-  Remaining Part of Original Access Easement
-  Relocation of Access Easement
-  District Fee Simple Ownership
-  District Conservation Easement
-  District Perpetual Easement







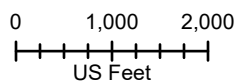
Southwest Florida  
Water Management District

P-6 Access Easement Release and Relocation SWF Parcel No. 20-006-101P



Esri, NASA, NGA, USGS, FEMA, University of South Florida, FDEP, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, University of South Florida, FDEP, Esri, HERE, Garmin, FAO, NOAA, USGS, EPA, NPS

-  Relocation of Access Easement
-  Remaining Part of Original Access Easement
-  District Fee Simple Ownership
-  District Perpetual Easement



Southwest Florida  
Water Management District

### Recap Exhibit 3

Prepared by:  
Southwest Florida Water Management  
District 2379 Broad Street  
Brooksville, FL 34602

Return recorded original to:  
Attn: Real Estate and Land Use Section  
Southwest Florida Water Management  
District 2379 Broad Street  
Brooksville, FL 34602

P-6 Canal Access  
SWF Parcel No. 20-006-001P

#### AMENDMENT TO EASEMENT

This Amendment to Easement, agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Yeager Development Company, Inc., a Florida corporation, having an address of 1404 Green Cove Road, Winter Park, FL 32789 (Grantor), and the Southwest Florida Water Management District, a public corporation, having an address of 2379 Broad Street, Brooksville, Florida 34604-6899 (Grantee).

#### WITNESSETH:

**WHEREAS**, Grantor is the owner of certain real property located in Polk County, Florida, more particularly described in Exhibit "A" and attached hereto (Property); and

**WHEREAS**, Grantee was granted a perpetual easement (Perpetual Easement) over the subject Property on February 26, 1965, as recorded in the Public Records of Polk County, Florida, at Official Records Book 913, Page 233; and

**WHEREAS**, the Perpetual Easement provided the Grantee, its agents, successors and assigns a perpetual easement and right-of-way for the purposes of ingress and egress to access the P-6 Canal ; and

**WHEREAS**, the Grantor and Grantee wish to amend the legal description of the Perpetual Easement (Amendment) to align with a paved road being constructed on the Property that overlaps the existing access road.

**NOW THEREFORE**, in consideration of the above recitals and the mutual covenants, terms, conditions, and restrictions contained herein, the Grantor and Grantee hereby amend the Perpetual Easement to wit:

The legal description of the Property set forth in Exhibit "A", attached hereto and incorporated herein by this reference, replaces in its entirety the legal description of the property set forth in the Perpetual Easement recorded in the Official Records of Polk County, Florida at Official Records Book 913, Page 233.

The covenants, terms and conditions of this Amendment shall be binding upon, and inure to the benefit of the Grantor and Grantee, their personal representatives, heirs,

successors, and assigns and continue as a servitude running in perpetuity with the Property.

Except as expressly modified in this Amendment, the Perpetual Easement recorded in the Official Records of Polk County, Florida at Official Records Book 913, Page 233 shall continue in full force and effect according to its terms and conditions, and the Grantor and Grantee hereby ratify and affirm their respective rights and obligations under the Perpetual Easement.

[signature pages follow]

RECAP EXHIBIT 3

IN WITNESS WHEREOF, Grantor has caused these presents to be executed in its name the day and year aforesaid.

Witnesses:

Yeager Development Company, Inc.  
A Florida corporation

\_\_\_\_\_

\_\_\_\_\_  
Jeffery D. Yeager, President

\_\_\_\_\_  
Print Name

\_\_\_\_\_

\_\_\_\_\_  
Print Name

THE FOREGOING INSTRUMENT was acknowledged before me by means of  
☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_. He/She ☐ is personally known to me, or ☐ has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_

Notary Public Signature  
Print Notary Name:

\_\_\_\_\_

My commission expires:

\_\_\_\_\_

IN WITNESS WHEREOF, Grantee has caused these presents to be executed in its name by its Governing Board acting by the Chair or Vice Chair of said board, the day and year aforesaid.

GRANTEE:

Southwest Florida Water Management District,  
a Florida Public Corporation

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

Southwest Florida Water Management District,  
a Florida Public Corporation

By: \_\_\_\_\_  
Rebecca Smith, Secretary

THE FOREGOING INSTRUMENT was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_. He/She ☐ is personally known to me, or ☐ has produced \_\_\_\_\_ as identification.

Notary Public Signature  
Print Notary Name:  
My commission expires:

Recap Exhibit 4  
Exhibit A  
SWF Parcel No. 20-006-101P

Legal Description Parcel 20-006-101P

A PARCEL OF LAND BEING A PORTION OF SECTION 15, TOWNSHIP 28 SOUTH, RANGE 26 EAST, POLK COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE A 4" x 4" CONCRETE MONUMENT WITH A DISK LABELED LB7454, LYING AT THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 15, SAID POINT HAVING A NORTHING OF 1,347,673.47 FEET, AND AN EASTING OF 752,255.25 FEET IN REFERENCE TO THE STATE PLANE COORDINATE SYSTEM OF FLORIDA, NORTH AMERICAN DATUM OF 1983, 2011 ADJUSTMENT, AND RUN THENCE ALONG THE WEST BOUNDARY OF SAID SOUTHEAST 1/4, N00°05'30"W A DISTANCE OF 1,379.25 FEET TO A POINT MONUMENTED WITH A ONE HALF INCH IRON ROD WITH CAP READING "PESURV LB8112", LYING ON THE NORTHERN RIGHT OF WAY OF BUCKEYE LOOP ROAD / AVENUE T NE (AS DESCRIBED IN OFFICIAL RECORD BOOK 748, PAGE 608 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA), SAID POINT LYING ON A CURVE CONCAVE NORTHEASTERLY, NON TANGENT TO THE PREVIOUS COURSE, HAVING A RADIUS OF 924.93 FEET, A DELTA ANGLE OF 00°37'35", CHORD LENGTH OF 10.11 FEET, AND CHORD BEARING S77°49'10"E. THENCE ALONG SAID NORTHERN RIGHT OF WAY LINE AND CURVE AN ARC DISTANCE OF 10.11 FEET TO A NON TANGENT POINT ON A CURVE HAVING A RADIUS OF 27.00 FEET, A DELTA ANGLE OF 51°18'09", A CHORD LENGTH OF 23.38 FEET, AND CHORD BEARING N25°33'34"E, SAID POINT ON CURVE BEING A TRUE POINT OF BEGINNING. RUN THENCE ALONG SAID CURVE AN ARC DISTANCE OF 24.18 FEET; THENCE N00°05'30"W A DISTANCE OF 964.56 FEET; THENCE N26°28'26"W A DISTANCE OF 59.37 FEET; THENCE N00°51'18"W A DISTANCE OF 2,274.25 FEET TO A POINT ON THE SOUTH BOUNDARY OF THE WILLOWBROOK GOLF COURSE, AS DESCRIBED IN OFFICIAL RECORD BOOK 1006, PAGE 150 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE ALONG SAID SOUTH BOUNDARY S75°33'40"E A DISTANCE OF 31.10 FEET; THENCE S00°51'18"E A DISTANCE OF 2,259.23 FEET; THENCE S26°28'26"E A DISTANCE OF 82.08 FEET; THENCE S00°05'30"E A DISTANCE OF 968.38 FEET TO A POINT ON CURVE TO THE LEFT HAVING A RADIUS OF 27.00 FEET, A DELTA ANGLE OF 30°57'17", A CHORD LENGTH OF 14.41 FEET, AND A CHORD BEARING OF S15°34'09"E. THENCE ALONG SAID CURVE AN ARC DISTANCE OF 14.59 FEET TO SAID NORTH RIGHT OF WAY LINE AND A NON TANGENT POINT ON A CURVE HAVING A RADIUS OF 924.93 FEET, A DELTA ANGLE OF 3°23'52", A CHORD LENGTH OF 54.84 FEET, AND A CHORD BEARING N79°49'53"W; THENCE ALONG SAID NORTHERN RIGHT OF WAY LINE AND CURVE AN ARC DISTANCE OF 54.85 FEET TO THE POINT OF BEGINNING. SUBJECT PARCEL CONTAINS 109,609 SQUARE FEET OR 2.5163 ACRES.

Approved for use by the Survey Section 05-05-2020, W.O. 18-027.

Remainder of this page intentionally left blank.



**CONSENT AGENDA**

**February 23, 2021**

**Regulation Committee: WUP No. 20001156.013, Bay Laurel Center Public Water Supply System / Bay Laurel Center Community Development District and On Top of the World Communities, LLC (Marion County)**

This is a renewal with modification of an existing Water Use Permit for public supply. The authorized quantities have changed from those previously permitted. The annual average quantity increases from 2,555,000 gallons per day (gpd) to 7,560,900 gpd, and the peak month quantity increases from 3,321,000 gpd to 10,509,600 gpd. Quantities are based on a 2040 projected functional population of 45,745 and a compliance per capita of 150 gpcd. The functional population estimated for the end of the previous permit term was 15,409. The development is experiencing and anticipating continued high growth rates over the permit term. Therefore, special conditions of the permit include five-year reporting conditions to track conservation efforts and per capita as well as to monitor development trends as projected in the permit application. These conditions will allow the permit to be adjusted through modification if the trends show unanticipated decreases or increases from the development plan. The Permittee is not using Alternative Water Supply (AWS) sources because none are available at this location. Modifications include the addition of three proposed production wells.

Special conditions requires monthly reporting of meter readings; meter accuracy checks every five years; modifying the permit if a source of AWS is incorporated into the permit; collecting water quality samples at designated production wells on a quarterly basis; submitting three reports describing (1) conservation efforts and per capita improvements, (2) changes to service area and demand projections, and (3) water quality trends every five years with first reports due April 1, 2026; constructing the proposed wells according to approved specifications; providing a copy of the hydrogeologic investigation and aquifer performance test results associated with the proposed new wells; properly capping any wells not in use; responding in a timely manner to any requests for reclaimed water availability; maintaining a water-conserving rate structure; providing an annual report describing customer billing practices by October 1 each year; and providing a comprehensive Public Supply Annual Report (PSAR) by April 1 of each year.

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 001156.013**

**PERMIT ISSUE DATE:** February 23, 2021

**EXPIRATION DATE:** February 23, 2041

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:** Renewal

**GRANTED TO:** Bay Laurel Center Community Development District  
8470 S.W. 79Th Street Road, Suite 3  
Ocala, FL 34481

**PROJECT NAME:** Bay Laurel Center Public Water Supply System

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

**COUNTY:** Marion

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

ANNUAL AVERAGE	7,560,900 gpd
PEAK MONTH <sup>1</sup>	10,509,600 gpd

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

**ABSTRACT:**

This is a renewal with modification of an existing Water Use Permit for public supply. The authorized quantities have changed from those previously permitted. The annual average quantity increases from 2,555,000 gallons per day (gpd) to 7,560,900 gpd, and the peak month quantity increases from 3,321,000 gpd to 10,509,600 gpd. Quantities are based on a 2040 projected functional population of 45,745 and a compliance per capita of 150 gpcd. There is no change in Use Type from the previous revision. Modifications include the addition of three proposed production wells. The Permittee is not using Alternative Water Supply (AWS) sources because none are available at this location at this time.

Special conditions requires monthly reporting of meter readings; meter accuracy checks every five years; modifying the permit if a source of AWS is incorporated into the permit; collecting water quality samples at designated production wells on a quarterly basis; submitting three reports describing (1) conservation efforts and per capita improvements, (2) changes to service area and demand projections, and (3) water quality trends every five years with first reports due April 1, 2026; constructing the proposed wells according to approved specifications; providing a copy of the hydrogeologic investigation and aquifer performance test results associated with the proposed new wells; properly capping any wells not in use; responding in a timely manner to any requests for reclaimed water availability; maintaining a water-conserving rate structure; providing an annual report describing customer billing practices by October 1 each year; and providing a comprehensive Public Supply Annual Report (PSAR) by April 1 of each year.

**WATER USE TABLE (in gpd)**

<b><u>USE</u></b>	<b><u>ANNUAL AVERAGE</u></b>	<b><u>PEAK MONTH</u></b>
Public Supply	7,560,900	10,509,600

**USE TYPE**

Residential Single Family

**PUBLIC SUPPLY:**

Population Served: 45,745  
 Per Capita Rate: 150 gpd/person

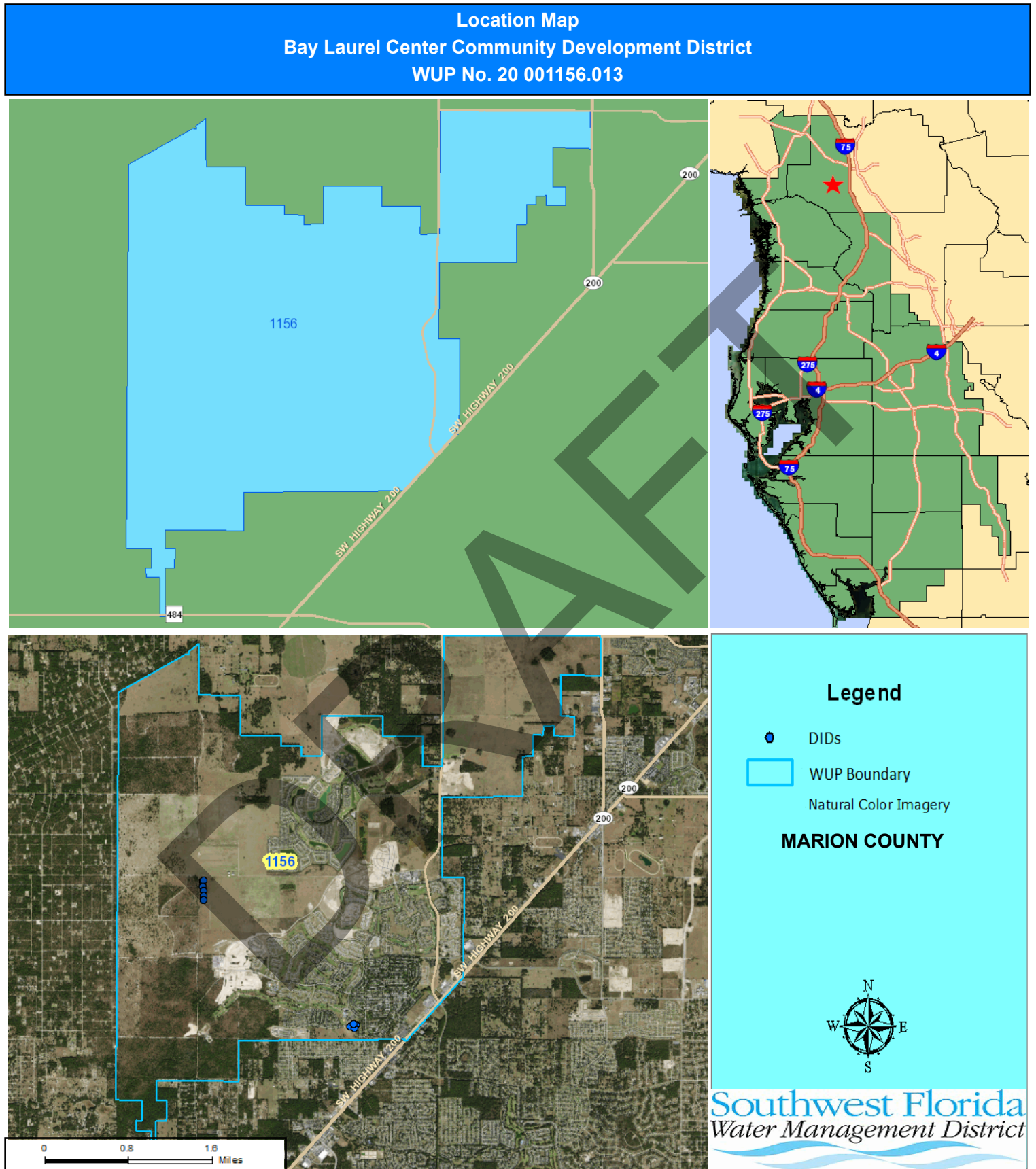
**WITHDRAWAL POINT QUANTITY TABLE**

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

<b><u>I.D. NO. PERMITTEE/ DISTRICT</u></b>	<b><u>DIAM (in.)</u></b>	<b><u>DEPTH TTL./CSD.FT. (feet bls)</u></b>	<b><u>USE DESCRIPTION</u></b>	<b><u>AVERAGE (gpd)</u></b>	<b><u>PEAK MONTH (gpd)</u></b>
7 / 7	12	118 / 72	Public Supply	845,160	1,174,770
23 / 23	12	200 / 147	Public Supply	845,160	1,174,770
29 / 29	18	165 / 91	Public Supply	845,160	1,174,770
30 / 30	12	215 / 125	Public Supply	845,160	1,174,770
46 / 46	20	153 / 87	Public Supply	696,710	968,420
47 / 47	20	160 / 98	Public Supply	696,710	968,420
57 / 57	20	158 / 96	Public Supply	696,710	968,420
P3A / 59	20	225 / 130	Public Supply	696,710	968,420
P3B / 60	20	225 / 130	Public Supply	696,710	968,420
P3C / 61	20	225 / 130	Public Supply	696,710	968,420

**WITHDRAWAL POINT LOCATION TABLE**

<b><u>DISTRICT I.D. NO.</u></b>	<b><u>LATITUDE/LONGITUDE</u></b>
7	29° 04' 47.70"/82° 16' 09.60"
23	29° 04' 46.50"/82° 16' 14.50"
29	29° 04' 45.50"/82° 16' 11.30"
30	29° 04' 48.20"/82° 16' 11.50"
46	29° 06' 20.30"/82° 18' 04.00"
47	29° 06' 21.20"/82° 18' 03.80"
57	29° 06' 17.30"/82° 18' 04.00"
59	29° 06' 14.31"/82° 18' 03.58"
60	29° 06' 11.32"/82° 18' 03.60"
61	29° 06' 08.38"/82° 18' 03.62"



**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. This permit shall be modified if an additional source of water is provided for public supply use from a separate entity. This includes additional Alternative Water Supply quantities and irrigation water for lawn/landscape and common areas. The Permittee shall notify the District of the additional water source and submit an application to modify the permit to acknowledge receipt.(68)
3. Starting on April 1, 2026 and every five years thereafter on April 1, 2031 and April 1, 2036, the permittee shall provide the District a Conservation Report describing the permittee's progress in achieving the applicable per capita conservation goals identified in the table titled "Estimated Per Capita Reduction Based on Participation & Business Plan" (the "Per Capita Table") found on page 12 of the Bay Laurel Center CDD 2020 Water Conservation Plan dated October 1, 2020, which was submitted as part of the permit application. The Report shall provide the estimated Lower Persons Per Household Adjusted Population Per Capita Water Use for the permittee's service area for the preceding calendar year using any of the approved per capita estimation methods contained in the District's Water Use Permit Applicant's Handbook ("Applicant's Handbook"). If the report shows that the estimated per capita use is within the applicable per capita conservation goals identified in the Per Capita Table, then this condition will be satisfied and the permittee shall not be deemed in non-compliance with the compliance per capita use rate contained in the Applicant's Handbook. If the report shows the estimated per capita use rate exceeds the applicable per capita conservation goals identified in the Per Capita Table, the permittee will provide an explanation for the difference and, if deemed necessary by the District, provide an updated Conservation Plan addressing the situation. If the reports submitted on April 1, 2031 and April 1, 2036 show that the estimated per capita use rate exceeds the applicable per capita conservation goals identified in the Per Capita Table, the permittee will be deemed in non-compliance. If the permittee is deemed in non-compliance, the District may pursue any available compliance measures. For purposes of this permit, the permittee shall be deemed to be making progress in achieving the compliance per capita use rate in the Applicant's Handbook during the first five years preceding the April 1, 2026 Monitoring Report and shall not be deemed in non-compliance with this criterion.  
(76)

4. The Permittee shall construct the proposed wells according to the surface diameter and casing depth specifications below. The casing shall be continuous from land surface to the minimum depth stated and is specified to prevent the unauthorized interchange of water between different water bearing zones. If a total depth is listed below, this is an estimate, based on best available information, of the depth at which high producing zones are encountered. However, it is the Permittee's responsibility to have the water in the well sampled during well construction, before reaching the estimated total depth. Such sampling is necessary to ensure that the well does not encounter water quality that cannot be utilized by the Permittee, and to ensure that withdrawals from the well will not cause salt-water intrusion. All depths given are in feet below land surface. For Well Construction requirements see Exhibit B, Well Construction Instructions, attached to and made part to this permit.

District ID Nos. 59, 60, and 61, Permittee ID Nos. P3A, P3B, and P3C, having a surface diameter of 20 inches, with a minimum casing depth of 130 feet below land surface (ft bls), drilled to an estimated total depth of 225 ft bls ,  
(240)

5. Five years from issuance of this permit, by April 1st and every five years thereafter, the permittee shall provide the District a Monitoring Report in accordance with Appendix-3.3 of the Consolidated Documentation Supporting BLCCDD Population Projections ("Population/Demand Analysis") submitted as part of the permit application. The Monitoring Report shall describe the status of the permittee's service area and water use and provide population and demand information for the preceding five years versus the information contained in the Population/Demand Analysis. If the report shows that the population and demand for the preceding five years is substantially similar to the projections contained in the Population/Demand Analysis, then this condition will be satisfied. If the reports shows the population and demand for the preceding five years is substantially less than the projections contained in the Population/Demand Analysis, the permittee will provide an explanation for the difference and updated population and demand projections for the end of permit, if deemed necessary by the District. Following review of this information, the District may modify the permit to ensure that the permitted use meets the conditions for issuance. Permit modifications pursuant to this condition shall not be subject to competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes, in source requested by the District.  
(449)
6. The Permittee shall submit a copy of all well completion reports as filed with the Marion County Health Department to the Water Use Permit Bureau within 30 days of each well completion.(508)
7. Every five years, with first report due April 1, 2026, the Permittee shall provide a brief report summarizing water quality results from the designated production wells for the last five calendar years and for the period of record. The report should also include a discussion of any significant water quality trends observed.  
(524)
8. Following completion of the Aquifer Performance Test at DID 59, three copies of the testing methodology, recorded raw data and the results of the test shall be submitted to the Water Use Permit Bureau, within thirty days of completion of the well if submitted in hardcopy or two copies are required if submitted on CD. Only one submission is required if submitted online via the District's data website; however, any color documentation shall also be scanned in color. (530)
9. 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)
10. Beginning January 1, 2012, the Permittee shall comply with the following requirements:
- A. Customer billing period usage shall be placed on each utility-metered, customer's bill.
  - B. Meters shall be read and customers shall be billed no less frequently than bi-monthly.
  - C. The following information, as applicable to the customer, shall be provided at least once each calendar year and a summary of the provisions shall be provided to the District annually as described in Section D, below. The information shall be provided by postal mailings, bill inserts, online notices, on the bill or by other means. If billing units are not in gallons, a means to convert the units to gallons must be provided.
    - 1. To each utility-metered customer in each customer class - Information describing the rate structure and shall include any applicable:
      - a. Fixed and variable charges,
      - b. Minimum charges and the quantity of water covered by such charges,

- c. Price block quantity thresholds and prices,
- d. Seasonal rate information and the months to which they apply, and
- e. Usage surcharges

2. To each utility-metered single-family residential customer - Information that the customer can use to compare its water use relative to other single-family customers or to estimate an efficient use and that shall include one or more of the following:

- a. The average or median single-family residential customer billing period water use calculated over the most recent three year period, or the most recent two year period if a three year period is not available to the utility. Data by billing period is preferred but not required.
- b. A means to calculate an efficient billing period use based on the customer's characteristics, or
- c. A means to calculate an efficient billing period use based on the service area's characteristics.

D. Annual Report: The following information shall be submitted to the District annually by October 1 of each year of the permit term to demonstrate compliance with the requirements above. The information shall be current as of the October 1 submittal date.

- 1. Description of the current water rate structure (rate ordinance or tariff sheet) for potable and non-potable water.
  - 2. Description of the current customer billing and meter reading practices and any proposed changes to these practices (including a copy of a bill per A above).
  - 3. Description of the means the permittee uses to make their metered customers aware of rate structures, and how the permittee provides information their metered single-family residential customers can use to compare their water use relative to other single-family customers or estimate an efficient use (see C 1 & 2 above).
- (592)

- 11. The Permittee shall maintain a water conserving rate structure for the duration of the permit term. Any changes to the water conserving rate structure described in the application shall be described in detail as a component of the next Annual Report on Water Rate, Billing and Meter Reading Practices of the year following the change.(659)
- 12. The Permittee shall submit a "Public Supply Annual Report" to the District by April 1 of each year on their water use during the preceding calendar year using the form, "Public Supply Water Use Annual Report Form" (Form No. LEG-R.103.00 (05/14)), referred to in this condition as "the Form," and all required attachments and documentation. The Permittee shall adhere to the "Annual Report Submittal Instructions" attached to and made part of this condition in Exhibit B. The Form addresses the following components in separate sections.

#### **Per Capita Use Rate**

A per capita rate for the previous calendar year will be calculated as provided in Part A of the Form using Part C of the Form to determine Significant Use deduction that may apply. The Permittee's failure to achieve a per capita rate of 150 gpd according to the time frames included in the "Instructions for Completion of the Water Use Annual Report," shall be addressed under Special Condition 3.

#### **Residential Use**

Residential use shall be reported in the categories specified in Part B of the Form, and the methodology used to determine the number of dwelling units by type and their quantities used shall be documented in an attachment.

#### **Non-Residential Use**

Non-residential use quantities provided for use in a community but that are not directly associated with places of residence, as well as the total water losses that occur between the point of output of the treatment plant and accountable end users, shall be reported in Part B of the Form.

#### **Water Conservation**

In an attachment to the Form, the Permittee shall describe the following:

- 1. Description of any ongoing audit program of the water treatment plant and distribution systems to address reductions in water losses.
- 2. An update of the water conservation plan that describes and quantifies the effectiveness of measures currently in practice, any additional measures proposed to be implemented, the scheduled implementation dates, and an estimate of anticipated water savings for each additional measure. Any

update of the Water Conservation Plan will be handled under Special Condition 3 of this permit.

3. A description of the Permittees implementation of water-efficient landscape and irrigation codes or ordinances, public information and education programs, water conservation incentive programs, identification of which measures and programs, if any, were derived from the Conserve Florida Water Conservation Guide, and provide the projected costs of the measures and programs and the projected water savings.

#### **Water Audit**

If the current water loss rate is greater than 10% of the total distribution quantities, a water audit as described in the "Instructions for Completion of the Water Use Annual Report" shall be conducted and completed by the following July 1, with the results submitted by the following October 1. Indicate on Part A of the Form whether the water audit was done, will be done, or is not applicable.

#### **Alternative Water Supplied Other Than Reclaimed Water**

If the Permittee provides Alternative Water Supplies other than reclaimed water (e.g., stormwater not treated for potable use) to customers, the information required on Part D of the Form shall be submitted along with an attached map depicting the areas of current Alternative Water Use service and areas that are projected to be added within the next year.

#### **Suppliers of Reclaimed Water**

1. Permittees having a wastewater treatment facility with an annual average design capacity equal to or greater than 100,000 gpd:

The Permittee shall submit the "SWFWMD Annual Reclaimed Water Supplier Report" on quantities of reclaimed water that was provided to customers during the previous fiscal year (October 1 to September 30). The report shall be submitted in Excel format on the Compact Disk, Form No. LEG-R.026.00 (05/09), that will be provided annually to them by the District. A map depicting the area of reclaimed water service that includes any areas projected to be added within the next year, shall be submitted with this report.

2. Permittees that have a wastewater treatment facility with an annual average design capacity less than 100,000 gpd:

a. The Permittee has the option to submit the "SWFWMD Annual Reclaimed Water Supplier Report," Form No. LEG-R.026.00, as described in sub-part (1) above, or

b. Provide information on reclaimed water supplied to customers on Part E of the Form as described in the "Instructions for Completion of the Water Use Annual Report".

#### **Updated Service Area Map**

If there have been changes to the service area since the previous reporting period, the Permittee shall update the service area using the map that is maintained in the District's Mapping and GIS system. (660)

13. Permittees having their own wastewater treatment plant that generate at least advanced-secondary treated effluent (high-level disinfection, as described in Rule 62-600.440(5), F.A.C.) to the minimum FDEP requirements for public access reuse shall respond in a timely manner to inquiries about availability from water use permit applicants for water uses where such reclaimed water is appropriate. If reclaimed water is or will be available to that permit applicant within the next six years, the Permittees shall provide a cost estimate for connection to the applicant.(674)
14. The following proposed withdrawal facilities shall be metered within 90 days of completion of construction of the facilities: District ID Nos. 59, 60, and 61, Permittee ID Nos. P3A, P3B, and P3C. 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.(718)
15. 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 Nos. 7, 23, 29, 30, 46, 47, and 57, Permittee ID Nos. 7, 23, 29, 30, 46, 47, and 57. 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)



16. Water quality samples from the withdrawal points listed below shall be collected after pumping the withdrawal point at its normal rate to a constant temperature, pH, and conductivity. The frequency of sampling per water quality parameter is listed in the table according to the withdrawal point. Samples shall be collected whether or not the well is being used unless infeasible. If sampling is infeasible, the Permittee shall indicate the reason for not sampling on the water quality data form or in the space for comments in the WUP Portal for data submissions. For sampling, analysis and submittal requirements see Exhibit B, Water Quality Sampling Instructions, attached to and made part of this permit.

Existing District ID Nos. 23, 29, and 57, Permittee ID Nos. 23, 29, and 57 for chlorides, sulfate, and TDS on a quarterly basis (February, May, August, and November).

(752)

DRAFT

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.

#### WATER QUALITY INSTRUCTIONS

The Permittee shall perform water quality sampling, analysis and reporting as follows:

1. The sampling method(s) from both monitor wells and surface water bodies shall be designed to collect water samples that are chemically representative of the zone of the aquifer or the depth or area of the water body.
2. Water quality samples from monitor wells shall be taken after pumping the well for the minimum time specified (if specified) or after the water reaches a constant temperature, pH, and conductivity.
3. The first submittal to the District shall include a copy of the laboratory's analytical and chain of custody procedures. If the laboratory used by the Permittee is changed, the first submittal of data analyzed at the new laboratory shall include a copy of the laboratory's analytical and chain of custody procedures.
4. Any variance in sampling and/or analytical methods shall have prior approval of the Water Use Permit Bureau Chief.
5. The Permittee's sampling procedure shall follow the handling and chain of custody procedures designated by the certified laboratory which will undertake the analysis.
6. Water quality samples shall be analyzed by a laboratory certified by the Florida Department of Health utilizing the standards and methods applicable to the parameters analyzed and to the water use pursuant to Chapter 64E-1, Florida Administrative Code, "Certification of Environmental Testing Laboratories."
7. Analyses shall be performed according to procedures outlined in the current edition of Standard Methods for the Examination of Water and Wastewater by the American Public Health Association-American Water Works Association-Water Pollution Control Federation (APHA-AWWA-WPCF) or Methods for Chemical Analyses of Water and Wastes by the U.S. Environmental Protection Agency (EPA).
8. Unless other reporting arrangements have been approved by the Water Use Permit Bureau Chief, reports of the analyses shall be submitted to the Water Use Permit Bureau, online at the District WUP Portal or mailed in hardcopy on or before the tenth day of the following month. The online submittal shall include a scanned upload of the original laboratory report. The hardcopy submittal shall be a copy of the laboratory's analysis form. If for some reason, a sample cannot be taken when required, the Permittee shall indicate so and give the reason in the space for comments at the WUP Portal or shall submit the reason in writing on the regular due date.
9. The parameters and frequency of sampling and analysis may be modified by the District as necessary to ensure the protection of the resource.
10. Water quality samples shall be collected based on the following timetable for the frequency listed in the special condition:

#### Frequency

Weekly  
Quarterly  
Semi-annually  
Monthly

#### Timetable

Same day of each week  
Same week of **February, May, August, November**  
Same week of **May, November**  
Same week of each month

WELL CONSTRUCTION INSTRUCTIONS

All wells proposed to be constructed shall be drilled and constructed as specified below:

1. All well casing (including liners and/or pipe) must be sealed to the depth specified in the permit condition.
2. The proposed well(s) shall be constructed of materials that are resistant to degradation of the casing/grout due to interaction with the water of lesser quality. A minimum grout thickness of two (2) inches is required on wells four (4) inches or more in diameter.
3. A minimum of twenty (20) feet overlap and two (2) centralizers is required for Public Supply wells and all wells six (6) inches or more in diameter.
4. Any variation from estimated, maximum or minimum total depths; maximum or minimum casing depths; well location or casing diameter specified in the condition requires advanced approval by the Water Use Permit Bureau Chief, or the Well Construction Section Manager.
5. The Permittee is notified that a proposal to significantly change any of these well construction specifications may require permit modification if the District determines that such a change would result in significantly greater withdrawal impacts than those considered for this Permit.
6. The finished well casing depth shall not vary from these specifications by greater than ten (10) percent unless advance approval is granted by the Water Use Permit Bureau Chief, or the Well Construction Section Manager.

ANNUAL REPORT SUBMITTAL INSTRUCTIONS

The "Public Supply Water Use Annual Report Form" (Form No. LEG-R.023.00 (01/09)), is designed to assist the Permittee with the annual report requirements, but the final authority for what must be included in the Water Use Annual Report is in this condition and in these instructions. Two identical copies of the "Public Supply Water Use Annual Report Form" and two identical copies of all required supporting documentation shall be included if submitted in hard copy. "Identical copy" in this instance means that if the original is in color, then all copies shall also be printed in color. If submitted electronically, only one submittal is required; however, any part of the document that is in color shall be scanned in color.

1. **Per Capita Use Rate** - A per capita rate for the previous calendar year will be progressively calculated until a rate of 150 gpd per person or less is determined whether it is the unadjusted per capita, adjusted per capita, or compliance per capita. The calculations shall be performed as shown in Part A of the Form. The Permittee shall refer to and use the definitions and instructions for all components as provided on the Form and in the Water Use Permit Applicant's Handbook Part B. Permittees that have interconnected service areas and receive an annual average quantity of 100,000 gpd or more from another permittee are to include these quantities as imported quantities. Permittees in the Southern Water Use Caution Area (SWUCA) or the Northern Tampa Bay Water Use Caution Area (NTBWUCA), as it existed prior to October 1, 2007, shall achieve a per capita of 150 gpd or less, and those in these areas that cannot achieve a compliance per capita rate of 150 gpd or less shall include a report on why this rate was not achieved, measures taken to comply with this requirement, and a plan to bring the permit into compliance. Permittees not in a Water Use Caution Area that cannot achieve a compliance per capita rate of 150 gpd or less by December 31, 2019 shall submit this same report in the Annual Report due April 1, 2020.
2. **Residential Use** - Residential water use consists of the indoor and outdoor water uses associated with each category of residential customer (single family units, multi-family units, and mobile homes), including irrigation uses, whether separately metered or not. The Permittee shall document the methodology used to determine the number of dwelling units by type and the quantities used. Estimates of water use based upon meter size will not be accepted. If mobile homes are included in the Permittees multi-family unit category, the information for them does not have to be separated. The information for each category shall include:
  - A. Number of dwelling units per category,
  - B. Number of domestic metered connections per category,
  - C. Number of metered irrigation connections,
  - D. Annual average quantities in gallons per day provided to each category, and
  - E. Percentage of the total residential water use provided apportioned to each category.
3. **Non-Residential Use** - Non-residential use consists of all quantities provided for use in a community not directly associated with places of residence. For each category below, the Permittee shall include annual average gpd provided and percent of total non-residential use quantities provided. For each category 1 through 6 below, the number of metered connections shall be provided. These non-residential use categories are:
  - A. Industrial/commercial uses, including associated lawn and landscape irrigation use,

- B. Agricultural uses (e.g., irrigation of a nursery),
  - C. Recreation/Aesthetic, for example irrigation (excluding golf courses) of Common Areas, stadiums and school yards,
  - D. Golf course irrigation,
  - E. Fire fighting, system testing and other accounted uses,-
  - F. K-through-12 schools that do not serve any of the service area population, and
  - G. Water Loss as defined as the difference between the output from the treatment plant and accounted residential water use (B above) and the listed non-residential uses in this section.
4. **Water Audit** - The water audit report that is done because water losses are greater than 10% of the total distribution quantities shall include the following items:
- A. Evaluation of:
    - 1) leakage associated with transmission and distribution mains,
    - 2) overflow and leakage from storage tanks,
    - 3) leakage near service connections,
    - 4) illegal connections,
    - 5) description and explanations for excessive distribution line flushing (greater than 1% of the treated water volume delivered to the distribution system) for potability,
    - 6) fire suppression,
    - 7) un-metered system testing,
    - 8) under-registration of meters, and
    - 9) other discrepancies between the metered amount of finished water output from the treatment plant less the metered amounts used for residential and non-residential uses specified in Parts B and C above, and
  - B. A schedule for a remedial action-plan to reduce the water losses to below 10%.
5. **Alternative Water Supplied other than Reclaimed Water** - Permittees that provide Alternative Water Supplies other than reclaimed water (e.g., stormwater not treated for potable use) shall include the following on Part D of the Form:
- A. Description of the type of Alternative Water Supply provided,
  - B. County where service is provided,
  - C. Customer name and contact information,
  - D. Customer's Water Use Permit number (if any),
  - E. Customer's meter location latitude and longitude,
  - F. Meter ownership information,
  - G. General customer use category,
  - H. Proposed and actual flows in annual average gallons per day (gpd) per customer,
  - I. Customer cost per 1,000 gallons or flat rate information,
  - J. Delivery mode (e.g., pressurized or non-pressurized),
  - K. Interruptible Service Agreement (Y/N),
  - L. Month/year service began, and
  - M. Totals of monthly quantities supplied.
6. **Suppliers of Reclaimed Water** - Depending upon the treatment capacity of the Permittees wastewater treatment plant, the Permittee shall submit information on reclaimed water supplied as follows:
- A. Permittees having a wastewater treatment facility with an annual average design capacity equal to or greater than 100,000 gpd shall utilize the "SWFWMD Annual Reclaimed Water Supplier Report" in Excel format on the Compact Disk, Form No. LEG-R.026.00 (05/09). The "SWFWMD Annual Reclaimed Water Supplier Report" is described in Section 3.1 of Chapter 3, under the subheading "Reclaimed Water Supplier Report" and is described in detail in the Water Use Permit Applicant's Handbook Part B.
  - B. Permittees that have a wastewater treatment facility with an annual average design capacity less than 100,000 gpd can either utilize the "SWFWMD Annual Reclaimed Water Supplier Report," Form No. LEG-R.026.00, as described in sub-part (1) above or provide the following information on Part E of the Form:
    - 1) Bulk customer information:
      - a) Name, address, telephone number,



- b) WUP number (if any),
  - c) General use category (residential, commercial, recreational, agricultural irrigation, mining),
  - d) Month/year first served,
  - e) Line size,
  - f) Meter information, including the ownership and latitude and longitude location,
  - g) Delivery mode (pressurized, non-pressurized).
- 2) Monthly flow in gallons per bulk customer.
  - 3) Total gallons per day (gpd) provided for metered residential irrigation.
  - 4) Disposal information:
    - a) Site name and location (latitude and longitude or as a reference to the service area map),
    - b) Contact name and telephone,
    - c) Disposal method, and
    - d) Annual average gpd disposed.

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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****February 23, 2021****Regulation Committee: WUP No. 20009741.021, Pine Level Property / Mosaic Fertilizer, LLC and Family Dynamics, Inc. (Manatee County)**

This is a modification of an existing water use permit for agricultural use. The authorized quantities are changed from those previously permitted. The annual average quantity increases from 1,831,400 gallons per day (gpd) to 1,939,600 gpd; the peak month quantity increases from 8,904,800 gpd to 9,861,900 gpd; and the crop protection quantity increases from 20,191,900 gpd to 23,588,000 gpd. There is no change in Use Type from the prior revision. The change in quantities is due to the addition of 130 acres of citrus (from 1,575 to 1,705 acres) on land not previously farmed. Quantities are based on the District's irrigation allotment calculation program, AGMOD. This permit is located within the Southern Water Use Caution Area (SWUCA). This modification adds a source of alternative water supply (AWS) to assist in meeting irrigation demands for an existing 95 acres of citrus and the additional 130 new acres, via an approved FARMS (Facilitating Agricultural Resource Management Systems) project H776, which is expected to offset at least 59,000 gpd of groundwater on an annual average basis using a surface water reservoir. The FARMS project also extends the permit duration by ten years to December 18, 2037.

Special conditions include those that require the Permittee to report monthly meter readings; to perform meter accuracy checks every five years; to comply with the allocated quantities and to submit an overpumpage report upon request; to implement conservation and best management practices, and to provide an update of same by August 1, 2027; to report quantities used for freeze protection; to evaluate the feasibility of using reclaimed water upon request, and to modify the permit upon incorporation of an AWS; to maximize the use of surface water before augmenting; to construct proposed wells according to approved specifications, and to submit a well completion report following installation; to submit annual crop reports by March 1 each year; to submit seasonal crop reports by February 1 and September 1 each year; to geophysically log specified wells if the pump assembly is pulled; to comply with the requirements of the SWUCA Recovery Strategy; and to comply with the conditions of the FARMS contract.

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 009741.021**

**PERMIT ISSUE DATE:** February 23, 2021

**EXPIRATION DATE:** December 18, 2037

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:** Modification  
**GRANTED TO:** Mosaic Fertilizer, LLC and CMI  
Post Office Box 1157  
Arcadia, FL 34265  
  
Family Dynamics, Inc.  
Post Office Box 1157  
Arcadia, FL 34265

**PROJECT NAME:** Pine Level Property  
**WATER USE CAUTION AREA(S):** SOUTHERN WATER USE CAUTION AREA  
**COUNTY:** Desoto, Sarasota, Manatee

TOTAL QUANTITIES AUTHORIZED UNDER THIS PERMIT (in gallons per day)	
ANNUAL AVERAGE	1,939,600 gpd
PEAK MONTH <sup>1</sup>	9,861,900 gpd
DROUGHT ANNUAL AVERAGE <sup>2</sup>	2,582,200 gpd
CROP PROTECTION/MAXIMUM <sup>3</sup>	23,588,000 gpd

1. Peak Month: Average daily use during the highest water use month.
2. Drought Annual Average: Annual average limit when less than historical average rainfall if sufficient Water Conservation credits exist in the Permittee's account.
3. Crop Protection/Maximum: Maximum use allowed any 24-hour period/Frost and Freeze protection of crops.

**ABSTRACT:**

This is a modification of an existing water use permit for agricultural use. The authorized quantities are changed from those previously permitted. The annual average quantity increases from 1,831,400 gallons per day (gpd) to 1,939,600 gpd; the peak month quantity increases from 8,904,800 gpd to 9,861,900 gpd; and the crop protection quantity increases from 20,191,900 gpd to 23,588,000 gpd. There is no change in Use Type from the prior revision. The change in quantities is due to the addition of 130 acres of citrus. Quantities are based on the District's irrigation allotment calculation program, AGMOD. This permit is located within the Southern Water Use Caution Area (SWUCA) and with this modification adds a source of alternative water supply (AWS) to meet irrigation demand via FARMS (Facilitating Agricultural Resource Management Systems) project H776, which is expected to offset at least 59,000 gpd of groundwater on an annual average basis using a surface water reservoir. The FARMS project also extends the permit duration by ten years to December 18, 2037.

Special conditions include those that require the Permittee to report monthly meter readings; to perform meter accuracy checks every five years; to comply with the allocated quantities and to submit an overpumpage report upon request; to implement conservation and best management practices, and to provide an update of same by August 1, 2027; to report quantities used for freeze protection; to evaluate the feasibility of using reclaimed water upon request, and to modify the permit upon incorporation of an AWS; to maximize the use of surface water before augmenting; to construct proposed wells according to approved specifications, and to submit a well completion report following installation; to submit annual crop reports by March 1 each year; to submit seasonal crop reports by February 1 and September 1 each year; to geophysically log specified wells if the pump assembly is pulled; to comply with the requirements of the SWUCA Recovery Strategy; and to comply with the conditions of the FARMS contract.

**WATER USE TABLE (in gpd)**

<b><u>USE</u></b>	<b><u>ANNUAL AVERAGE</u></b>	<b><u>PEAK MONTH</u></b>	<b><u>DROUGHT ANNUAL AVERAGE</u></b>	<b><u>CROP PROTECTION /MAXIMUM</u></b>
Agricultural	1,939,600	9,861,900	2,582,200	23,588,000

**USES AND IRRIGATION ALLOCATION RATE TABLE**

<b><u>CROP/USE TYPE</u></b>	<b><u>IRRIGATED ACRES</u></b>	<b><u>IRRIGATION METHOD</u></b>	<b><u>STANDARD IRRIGATION RATE</u></b>	<b><u>DROUGHT IRRIGATION RATE</u></b>
Citrus	848.00	Low Volume Spray	13.70"/yr.	19.66"/yr.
Citrus	225.00	Low Volume Spray	13.10"/yr.	14.65"/yr.
Citrus	610.00	Low Volume Spray	13.20"/yr.	19.00"/yr.
Citrus	72.00	Low Volume Spray	19.30"/yr.	24.72"/yr.
Melons	150.00	Drip With Plastic	14.97"/yr.	14.97"/yr.
Melons	100.00	Drip With Plastic	23.24"/yr.	23.24"/yr.
Spray Mix For Crops				

**WITHDRAWAL POINT QUANTITY TABLE**

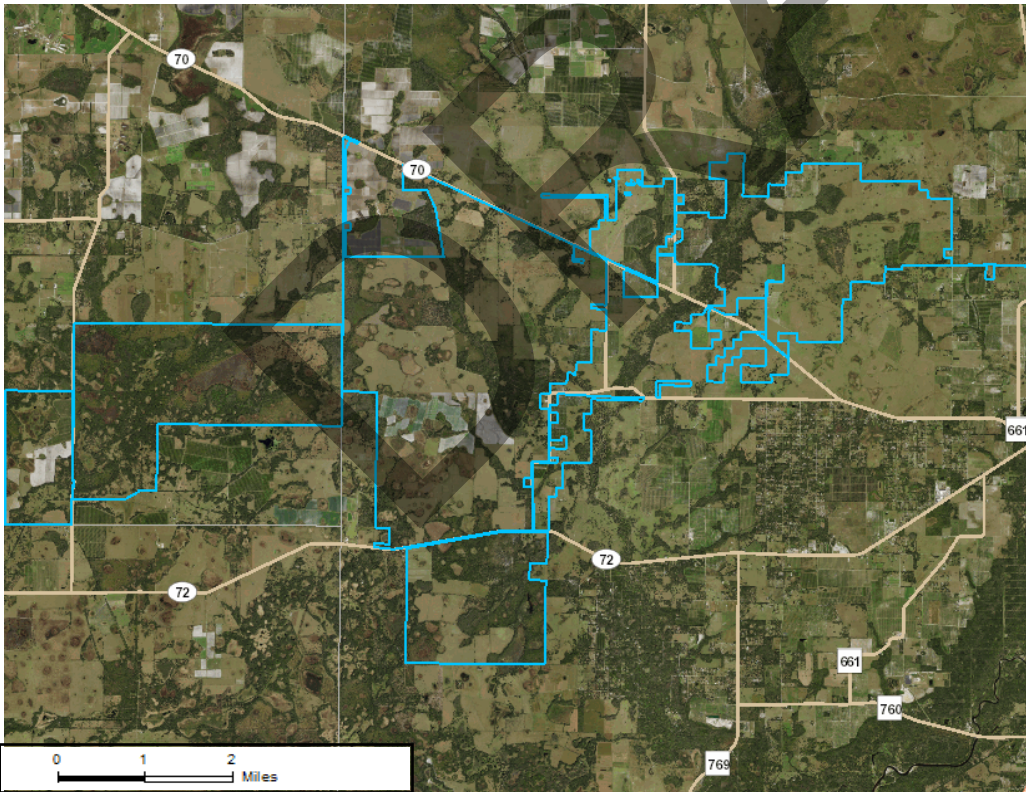
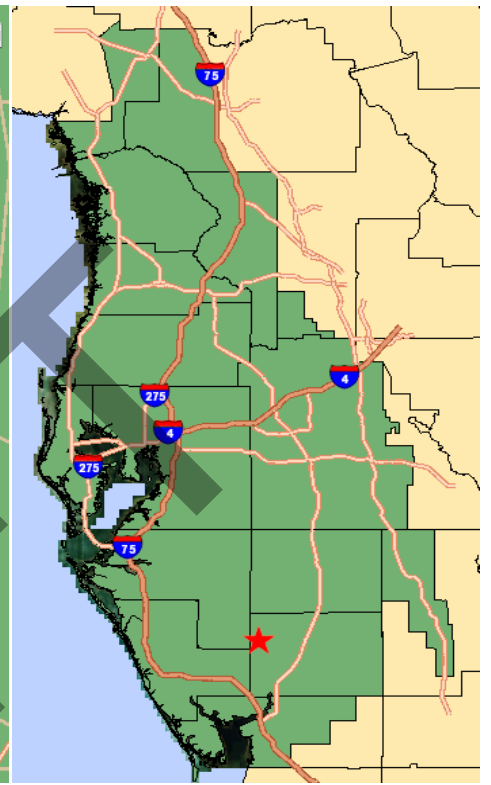
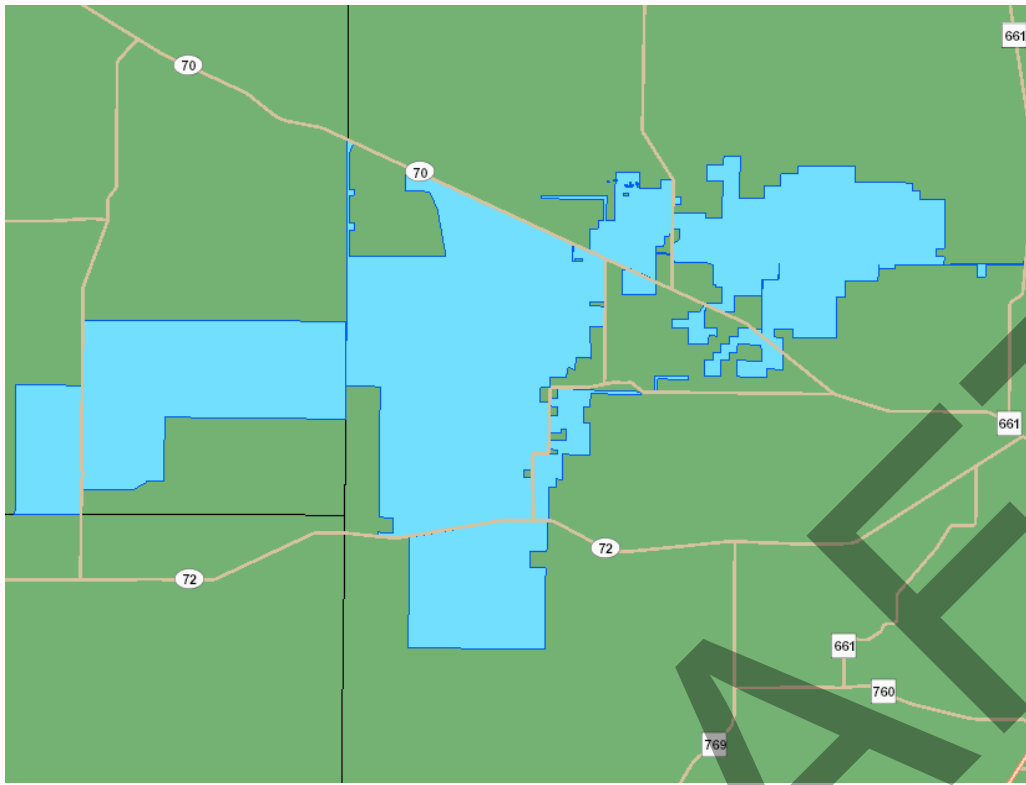
Water use from these withdrawal points are restricted to the quantities given below :

<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>	<b><u>CROP</u></b> <b><u>PROTECTION</u></b> <b><u>(gpd)</u></b>
3 / 3	12	1,480 / 420	Irrigation	146,200	414,400	1,643,900
4 / 4	16	1,500 / 600	Irrigation	45,700	414,400	1,052,500
Standby						
5 / 5	16	1,500 / 600	Irrigation	45,700	414,400	1,052,500
Standby						
6 / 6	16	1,500 / 600	Irrigation	29,300	414,400	262,900
Standby						
7 / 7	6	575 / 160	Irrigation	45,700	414,400	262,900
13 / 13	10	1,200 / 280	Irrigation	45,700	414,400	1,052,500
16 / 16	12	1,350 / 450	Irrigation	121,600	414,400	1,643,900
19 / 19	12	1,480 / 530	Irrigation	137,100	414,400	1,643,900
31 / 31	8	1,551 / 298	Irrigation	407,400	1,263,700	N/A
39 / 39	8	675 / 110	Irrigation	43,900	414,400	592,200
45 / 45	8	575 / 160	Irrigation	45,700	414,400	592,200
53 / 53	8	1,326 / UNK	Irrigation	46,100	414,400	592,200
54 / 54	8	1,300 / UNK	Irrigation	46,100	414,400	592,200
59 / 59	6	1,000 / UNK	Irrigation	1,000	2,000	N/A
60 / 60	8	1,420 / 588	Irrigation	45,700	414,400	592,200
61 / 61	10	1,340 / 420	Irrigation	77,700	414,400	1,052,500
63 / 63	14	1,310 / 570	Irrigation	69,300	414,400	2,367,100
64 / 64	16	1,250 / 520	Irrigation	45,700	414,400	262,900
Standby						
65 / 65	16	1,250 / 520	Irrigation	45,700	414,400	1,052,500
Standby						
66 / 66	12	1,450 / 320	Irrigation	339,900	200,400	N/A
76 / 76	12	1,120 / 420	Augmentation	196,000	1,536,000	5,496,100
81 / 81	14	1,400 / 560	Irrigation	80,400	414,400	1,643,900
82 / 82	10	1,380 / 536	Irrigation	29,300	414,400	262,900
83 / 83	12	N/A / N/A	Re-Pump	113,200	792,200	2,940,000



**WITHDRAWAL POINT LOCATION TABLE**

<b><u>DISTRICT I.D. NO.</u></b>	<b><u>LATITUDE/LONGITUDE</u></b>
3	27° 16' 08.00"/81° 58' 17.39"
4	27° 16' 11.85"/81° 55' 41.98"
5	27° 15' 58.60"/81° 55' 40.37"
6	27° 16' 37.04"/81° 54' 55.51"
7	27° 15' 15.86"/82° 00' 12.71"
13	27° 14' 56.98"/82° 00' 32.40"
16	27° 13' 47.78"/82° 00' 10.56"
19	27° 16' 18.14"/81° 59' 04.65"
31	27° 13' 53.81"/82° 01' 29.26"
39	27° 14' 57.24"/82° 00' 03.47"
45	27° 15' 22.03"/82° 00' 01.20"
53	27° 16' 57.13"/81° 56' 46.80"
54	27° 16' 47.26"/81° 56' 40.13"
59	27° 16' 05.08"/81° 55' 23.41"
60	27° 14' 42.26"/81° 59' 56.35"
61	27° 16' 46.27"/81° 58' 32.74"
63	27° 16' 19.80"/81° 54' 55.21"
64	27° 16' 24.34"/82° 01' 28.94"
65	27° 15' 17.70"/82° 01' 23.00"
66	27° 13' 58.47"/82° 02' 26.57"
76	27° 13' 59.98"/82° 07' 24.74"
81	27° 15' 51.83"/81° 59' 09.58"
82	27° 13' 12.76"/82° 00' 33.51"
83	27° 13' 18.35"/82° 07' 53.00"

**Location Map**  
**Mosaic Fertilizer, LLC and CMI**  
**WUP No. 20 009741.021**



**Legend**

-  DIDs
-  WUP Boundary
- Natural Color Imagery

**DESOTO, SARASOTA,  
 MANATEE COUNTY**



*Southwest Florida*  
 Water Management District

**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 Permittee shall document and report on District forms, the beginning and ending hours and dates of operation of each withdrawal point used for the protection of crops from frost, freeze or heat damage. The report shall include the gallons per day pumped from each withdrawal point based on irrigation system capacity, or if available, totalizing flow meter readings. This report shall be submitted by the 10th day of the month following irrigation for crop protection. The crop protection daily quantities specified in this permit are solely for the purpose of crop protection, and do not apply to routine irrigation practices. Irrigation for crop protection shall not exceed the crop protection daily quantity listed on the permit and shall not cause water to go to waste.

(1)

3. The Permittee shall construct the proposed wells according to the surface diameter and casing depth specifications below. The casing shall be continuous from land surface to the minimum depth stated and is specified to prevent the unauthorized interchange of water between different water bearing zones. If a total depth is listed below, this is an estimate, based on best available information, of the depth at which high producing zones are encountered. However, it is the Permittee's responsibility to have the water in the well sampled during well construction, before reaching the estimated total depth. Such sampling is necessary to ensure that the well does not encounter water quality that cannot be utilized by the Permittee, and to ensure that withdrawals from the well will not cause salt-water intrusion. All depths given are in feet below land surface. For Well Construction requirements see Exhibit B, Well Construction Instructions, attached to and made part to this permit.

District ID Nos. 4, 5, and 6, Permittee ID Nos. 4, 5, and 6, having a surface diameter of 16 inches, with a minimum casing depth of 600 feet, drilled to an estimated total depth of 1500 feet.

District ID Nos. 64 and 65, Permittee ID Nos. 64 and 65, having a surface diameter of 16 inches, with a minimum casing depth of 520 feet, drilled to a estimated total depth of 1250 feet.(240)

4. The Permittee shall evaluate the feasibility of improving the efficiency of the current irrigation system or converting to a more efficient system. This condition includes implementation of the improvement(s) or



conversion when determined to be operationally and economically feasible.(296)

5. 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)
6. The Permittee shall incorporate best water management practices, specifically including but not limited to irrigation practices, as recommended for the permitted activities in reports and publications by the IFAS.(312)
7. The Permittee shall limit daytime irrigation to the greatest extent practicable to reduce losses from evaporation. Daytime irrigation for purposes of system maintenance, control of heat stress, crop protection, plant establishment, or for other reasons which require daytime irrigation are permissible; but should be limited to the minimum amount necessary as indicated by best management practices. (331)
8. 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)
9. The Permittee shall geophysically (caliper) or video log District ID Nos. 53, 54, 59, 68, 69, 70, 71, 72, and 73, Permittee ID Nos. 53, 54, 59, 68, 69, 70, 71, 72, and 73, if the pump assembly is removed for maintenance or replacement within the term of this permit. If the Permittee does not have to remove the pump assembly during the term of this permit, he or she shall notify the District in writing upon submittal of their application to renew their water use permit (WUP). Such notification will not prejudice the Permittee's application. The District does not require the Permittee to remove the well assembly for the single purpose of logging the well.

The geophysical or video log must clearly show the diameter and total depth of each well, and the casing depth and casing continuity in each well. If a video log is made of the well, it shall clearly show the WUP number, Permittee name, and well identification number on the tape itself. One copy of the log shall be submitted to the District within 30 days of the logging event. Upon sufficient notice (approximately two to three weeks), the District can caliper log the well(s) at no cost to the Permittee; however, the Permittee shall remove the pump assembly at their own cost and prior to the arrival of the District logging vehicle on location.

Until such time as the logging is performed, the District shall continue to assess withdrawal impacts, and credit existing use per aquifer based on the assumption that multiple aquifers are open in the well bore. If an analysis of the log with respect to geology or hydrogeology is made, the report must be signed and sealed by a Professional Geologist who is registered and in good standing with the Florida Department of Business and Professional Regulation. (408)

10. Permittee shall not exceed the quantity determined by multiplying the total irrigated acres by the total allocated acre-inches per irrigated acre per season for each crop type. For all crops except Citrus, an irrigated acre, hereafter referred to as "acre," is defined as the gross acreage under cultivation, including areas used for water conveyance such as ditches, but excluding uncultivated areas such as wetlands, retention ponds, and perimeter drainage ditches. For Citrus, an irrigated acre is based on 74% shaded area, equivalent to 89.4% of the gross acreage minus uncultivated areas such as wetlands, retention ponds, and perimeter drainage ditches.

An applicant or permittee within the Southern Water Use Caution Area may obtain the total allocated acre-inches per acre per season for their crops, plants, soil types, planting dates, and length of growing season by completing the "Irrigation Water Allotment Form" and submitting it to the District. The District will complete and return the form with the calculated total allocated acre-inches and water conserving credit per acre per season per crop, if applicable, based on the information provided. The "Irrigation Water Allotment Form" is available upon request. (427)

11. The Permittee shall continue to implement the District-approved water conservation plan dated June 16, 2017 that was submitted in support of the 2017 renewal application (revision .018) 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. Progress reports 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 by August 1, 2027.(449)

12. The Permittee shall investigate the feasibility of increasing the use of or using reclaimed water for irrigation when notified by the District that reclaimed water may be available in sufficient supply to be utilized for this permit. The Permittee shall submit a report documenting the feasibility investigation within six months of the notification. The report shall contain an analysis of reclaimed water sources for the area, including the relative location of these sources to the Permittee's property, the quantity of reclaimed water available, the projected date(s) of availability, costs associated with obtaining the reclaimed water, and an implementation schedule for reuse, if feasible. Infeasibility shall be supported with a detailed explanation. If the use of reclaimed water is determined to be feasible by the Permittee or by the District, then the Permittee shall submit an application to modify this water use permit to include reclaimed water as a source of water. The modification application shall include a date when the reclaimed water will be available and shall indicate a proposed reduction in permitted quantities. If the permit application is not submitted by the Permittee, the District may reduce, following notice to the Permittee, the quantities authorized with this permit to account for the availability of reclaimed water. (458)
13. The Permittee shall record the following information on the Irrigation Water Use Form that is supplied by the District for annual crops for each permitted irrigation withdrawal point, District ID. Nos. 3, 4, 5, 6, 7, 13, 16, 19, 31, 39, 45, 53, 54, 60, 61, 63, 64, 65, 68, 69, 70, 71, 72, 73, 76, 81, and 82, Permittee ID Nos. 3, 4, 5, 6, 7, 13, 16, 19, 31, 39, 45, 53, 54, 60, 61, 63, 64, 65, 68, 69, 70, 71, 72, 73, 76, 81, and 82:
  1. Crop type,
  2. Irrigated acres,
  3. Irrigation method (NTBWUCA only),
  4. Dominant soil type per crop or the number of acres per crop on that dominant soil type, and
  5. If used, quantities used for crop protection.This information shall be submitted by March 1 of each year documenting irrigation for the previous calendar year. (474)
14. The Permittee shall record the following information on the Irrigation Water Use Form that is supplied by the District for seasonal crops for each permitted irrigation withdrawal point, District ID No. 66, Permittee ID No. 66:
  1. Crop type
  2. Irrigated acres per crop for the appropriate season,
  3. Dominant soil type or acres by dominant soil type,
  4. Irrigation method (NTBWUCA only),
  5. Use or non-use of plastic mulch,
  6. Planting dates, and
  7. Season length.This information shall be submitted by February 1 of each year documenting irrigation for the previous summer/fall seasonal crops, and by September 1 of each year documenting irrigation for the previous winter/spring crops. Strawberry irrigation information shall be submitted as a winter/spring crop.(476)
15. 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)
16. The Permittee shall submit a copy of the well completion reports to the District's Water Use Permit Bureau, within 30 days of each well completion.(583)
17. The Permittee shall maximize the use of surface waters before utilizing ground water for augmentation of the reservoir.(648)
18. This Permit is located within the Southern Water Use Caution Area (SWUCA). Pursuant to Section 373.0421, Florida Statutes, the SWUCA is subject to a minimum flows and levels recovery strategy, which became effective on January 1, 2007. The Governing Board may amend the recovery strategy, including amending applicable water use permitting rules based on an annual assessment of water resource criteria, cumulative water withdrawal impacts, and on a recurring five-year evaluation of the

status of the recovery strategy up to the year 2025 as described in Chapter 40D-80, Florida Administrative Code. This Permit is subject to modification to comply with new rules.(652)

19. 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 Nos. 3, 7, 13, 16, 19, 31, 39, 45, 53, 54, 60, 61, 63, 66, 68, 69, 70, 71, 72, 73, 76, 81, and 82, Permittee ID Nos. 3, 7, 13, 16, 19, 31, 39, 45, 53, 54, 55, 60, 61, 63, 66, 68, 69, 70, 71, 72, 73, 76, 81, and 82. 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)
20. The following existing, but previously un-metered withdrawal facilities shall be metered upon permit issuance: District ID No. 83, Permittee ID No. 83. 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.(720)
21. The following proposed 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 within 90 days of construction: District ID Nos. 4, 5, 6, 64, and 65, Permittee ID Nos. 4, 5, 6, 64, and 65. 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.(721)
22. Upon execution of the signed "FARMS" Agreement between the District and Permittee, the following condition shall be complied with.

A. Standby quantities are based on calculations performed by the DISTRICT that provide the best estimate of the groundwater quantities that shall be conserved or offset as a result of the operation of the FARMS Project (PROJECT). The parties recognize that the DISTRICT agreed to fund the PROJECT based upon this estimated resource benefit and the standby quantity shall constitute the "offset" of the PROJECT which may only be used by the Permittee in accordance with the provisions of paragraph C. The preceding sentence of this provision shall survive the termination or expiration of the FARMS Agreement for so long as the Permittee operates the PROJECT.

B. If a 20-year permit is issued, the Permittee agrees to operate the PROJECT in accordance with paragraph C for the term of the 20-year permit and the DISTRICT agrees that standby quantities shall not be reduced during the 20-year permit unless requested by the Permittee or required by Florida Statutes. Standby quantities will be reviewed during permit renewal and will remain on standby status without reduction as long as the Permittee continues to operate the PROJECT in accordance with paragraph C and the conditions for issuance provided for in Chapter 373, F.S. and Chapter 40D-2, F.A.C., are met. If the Permittee discontinues operating the PROJECT prior to the expiration of the 20-year permit, the Permittee shall submit a permit modification application within ten (10) days and the parties agree that the standby quantities will be reviewed by the DISTRICT in accordance with the provisions of Chapter 373, F.S. and Chapter 40D-2, F.A.C. In the event the Permittee subsequently operates the PROJECT, the Permittee shall modify the Permit in accordance with paragraph A. This provision shall survive the termination or expiration of the FARMS Agreement.

C. The Permittee shall use the project components for the purpose of reducing groundwater withdrawals to the maximum extent practicable and allowed under the terms and conditions of the Permit, or its subsequent renewal or modification on all portions of the agricultural operation which are capable of benefiting from the PROJECT. Notwithstanding the foregoing, the Permittee may use standby quantities for irrigation as reasonably necessary under the circumstances and in accordance with the Permit or its subsequent renewal or modification if the use of the water provided by the PROJECT is such that a) adverse crop effects will occur due to its use or detainment; b) food safety concerns arise through its use; c) the quantity of surface water and captured irrigation tailwater is insufficient to provide the quantities of water necessary for supplemental irrigation; d) an unforeseen malfunction in project components occurs; or e) if standby quantities estimated are not realized. If a 20-year permit is issued to the Permittee under the terms of paragraph B, this provision shall survive the expiration of the FARMS Agreement through the duration of the 20-year permit.

D. The Permittee shall not use the standby quantities to expand its agricultural operation or to irrigate a change in crop that utilizes more water than the existing crops that are set forth in the FARMS Agreement. This provision shall not be construed to prohibit the Permittee from expanding its

agricultural operation or irrigating different crops with quantities otherwise available in the Permit. This provision shall survive the termination or expiration of the FARMS Agreement for so long as the Permittee operates the PROJECT.

E. The Permittee shall not, sell, lease, convey or otherwise transfer the standby quantities from the Permit, or its subsequent renewal or modification, to any other permit, person, or entity or to another property owned by the Permittee. This provision shall survive the termination or expiration of the FARMS Agreement for so long as the Permittee operates the PROJECT.

F. The required permit modification applications may be made through the use of a Modification Short Form if otherwise permitted under DISTRICT rules.(990)

23. The permittee is eligible for water conserving credits at permit midterm (December 18, 2027) through the submittal of a Letter Modification Application.” The Permittee must be in compliance with all permit conditions and have submitted all appropriate seasonal and annual crop reporting forms to be eligible for the additional water conserving credits. The available water conserving credit quantity will be equal to twice the difference between the 5-in-10 and 2-in-10 irrigation requirements as determined by AGMOD.(1027)

DRAFT

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. Within the Southern Water Use Caution Area, if the District determines that significant water quantity or quality changes, impacts to existing legal uses, or adverse environmental impacts are occurring, the District, upon reasonable notice to the Permittee, including a statement of facts upon which the District based its determination, may reconsider the quantities permitted or other conditions of the permit as appropriate to address the change or impact, but only after an opportunity for the Permittee to resolve or mitigate the change or impact or to request a hearing.
17. 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.

#### WELL CONSTRUCTION INSTRUCTIONS

All wells proposed to be constructed shall be drilled and constructed as specified below:

- 1. All well casing (including liners and/or pipe) must be sealed to the depth specified in the permit condition.
- 2. The proposed well(s) shall be constructed of materials that are resistant to degradation of the casing/grout due to interaction with the water of lesser quality. A minimum grout thickness of two (2) inches is required on wells four (4) inches or more in diameter.
- 3. A minimum of twenty (20) feet overlap and two (2) centralizers is required for Public Supply wells and all wells six (6) inches or more in diameter.
- 4. Any variation from estimated, maximum or minimum total depths; maximum or minimum casing depths; well location or casing diameter specified in the condition requires advanced approval by the Water Use Permit Bureau Chief, or the Well Construction Section Manager.
- 5. The Permittee is notified that a proposal to significantly change any of these well construction specifications may require permit modification if the District determines that such a change would result in significantly greater withdrawal impacts than those considered for this Permit.
- 6. The finished well casing depth shall not vary from these specifications by greater than ten (10) percent unless advance approval is granted by the Water Use Permit Bureau Chief, or the Well Construction Section Manager.

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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****February 23, 2021****General Counsel's Report: Authorization to Issue Administrative Complaint and Order – Mining Activities Conducted without Water Use Permit – Watermelon Pit, LLC, and JDI Farms, Inc. – CT No. 404443 – Charlotte County**

On January 9, 2018, the District issued Water Use Permit (WUP) Number 8322.004 (Permit) to Watermelon Pit, LLC, and JDI Farms, Inc., (Permittees) authorizing water withdrawals in the amount of 51,600 gallons per day (gpd) on an annual average basis. The water withdrawals service a mining operation located in Charlotte County and in the Southern Water Use Caution Area (SWUCA).

On April 6, 2018, District staff conducted a compliance site inspection and observed multiple permit violations and unauthorized mining activities. Between April and July 2018, District staff issued letters to the Permittees advising of the violations. On January 24, 2019, the Permittees submitted WUP Modification Application 8322.005 (Application) to the District based upon a revised mining plan approved by the Florida Department of Environmental Protection (FDEP) under Environmental Resource Permit (ERP) number MMR\_367285-001 (FDEP ERP).

On May 15, 2019, and September 26, 2019, District staff conducted site inspections in furtherance of the Application and observed significant deviations from the approved mining plan associated with the FDEP ERP as well as violations of the Permit. The District granted the Permittees an extension of time to complete the Application and address the violations. On January 12, 2020, the Permittee for Watermelon Pit, LLC, passed away, and her daughter became the new Permittee. On January 27, 2020, District staff conducted a site inspection with the new Permittee and advised her of the violations. On January 31, 2020, the District issued a Notice of Violation and Request for Corrective Action Plan to the Permittees, who indicated a willingness at that time to cooperate with the District and bring the site into compliance.

On March 6, 2020, the Permittees submitted a proposed Corrective Action Plan which included a request to withdraw the Application and submit a new application after a modification to the FDEP ERP was obtained. On May 15, 2020, the Permittees submitted WUP Modification Application 8322.006 (Second Application). While the Second Application was under review, District staff conducted a site inspection on August 26, 2020, and observed violations of both the modified FDEP ERP and the Permit. The District granted the Permittees two extensions of time to complete the Second Application and resolve the violations.

On November 10, 2020, the District issued a Second Notice of Violation and proposed Consent Order which included the payment of penalties and enforcement costs, and required certain corrective actions. On December 11, 2020, the Permittees were notified that the District intended to deny the Second Application, as violations are ongoing. The Permittees have stopped communicating with the District and the site remains in noncompliance. It should be noted that the mining operation is party to past and present litigation by Charlotte County for ordinance violations relating to excavation and has been subject to enforcement action by FDEP for violations of the FDEP ERP.

**Staff Recommendation:**

- Authorize District staff to issue an Administrative Complaint and Order to the Permittees to obtain compliance with District rules.

- Authorize District staff to initiate an action in Circuit Court against the Permittees to recover a civil penalty/administrative fine, enforcement costs, litigation costs, and attorneys' fees if appropriate.
- Authorize District staff to initiate an action in Circuit Court to enforce the terms of the Administrative Complaint and Order, if necessary.

Presenter:

Megan Albrecht, Staff Attorney

## CONSENT AGENDA

February 23, 2021

### General Counsel's Report: Approval of Consent Order Between SWFWMD and Abdelijalil and Cindy Lou Bekkach - Unauthorized Construction - CT No. 380586 - Polk County

Abdelijalil and Cindy Lou Bekkach (Owners) own approximately 3.86 acres of real property zoned for residential use located at 426 Diamond Acres Road within Section 6, Township 27S, Range 27E, in Polk County, Florida (Property).

In October 2015, District staff conducted a site visit at the Property to confirm findings by the Florida Department of Environmental Protection (FDEP) that filling and dredging activities had occurred at the Property without an Environmental Resource Permit (ERP). District staff determined that a portion of the wetlands located on the Property had been filled and converted into improved pasture which included a gated livestock fence and an open-sided barn. Additionally, District staff determined that a small pond had been dredged within the altered wetland area. Following the site visit, District staff conducted additional investigations in concert with FDEP staff to determine whether the activities qualified for an agricultural exemption. District staff ultimately determined that the filling and dredging activities did not qualify for an agricultural exemption and that an ERP was required.

The District issued the Owners a Notice of Violation on October 4, 2016, and on August 6, 2019, for unauthorized construction activities. On February 26, 2020, District staff conducted a site visit with the Owners at the Property. District staff determined that approximately 1.46 acres of wetlands on the Property have been dredged and filled without an ERP and advised the Owners of the observed violations.

On January 29, 2021, the Owners agreed to the District's proposed Consent Order which requires the Owners to remove fill from the original wetland area within one hundred twenty (120) days of the approval of the Consent Order. Upon the removal of fill, it is anticipated that full restoration of the wetland will occur naturally within a year. Additionally, the Owners agree that they have incurred \$8,000 in penalties and \$3,500 in costs, for a total of \$11,500. The Consent Order requires an initial payment covering the District's costs of \$3,500 as well as payment of \$4,000 in penalties; the remaining \$4,000 in penalties will be waived upon the timely completion of the necessary restoration work.

#### Staff Recommendation:

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

#### Presenter:

Megan Albrecht, Staff Attorney

BEFORE THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

ORDER NO. SWF 21 –

IN RE: ABDELIJALIL and CINDY LOU BEKKACH  
CT NO. 380586  
PARCEL ID NO. 27-27-06-726500-041302  
POLK COUNTY, FLORIDA

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**CONSENT ORDER**

Pursuant to Sections 120.57(4) and 373.083, Florida Statutes (F.S.), this Consent Order is entered into by and between the Southwest Florida Water Management District (District) and Abdelijalil and Cindy Lou Bekkach (Owners), collectively referred to as “the Parties,” to settle certain matters at issue between the Parties. The Parties hereby voluntarily agree to the following findings of fact, conclusions of law, and corrective actions.

**FINDINGS OF FACT**

1. The District is the administrative agency charged with the responsibility to conserve, protect, manage, and control the water resources within its geographic boundaries, and to administer and enforce Chapter 373, F.S., and the rules promulgated thereunder as Chapter 62-330, Florida Administrative Code (F.A.C.).

2. The Owners own approximately 3.86 acres of real property located at 426 Diamond Acres Road, within Section 06, Township 27S, Range 27E, in Davenport, Polk County, Florida, which is more specifically described by the Polk County Property Appraiser as Parcel ID No. 27-27-06-726500-041302 (Property). The Owners’ mailing address is 426 Diamond Acres Road, Davenport, Florida 33837.

3. In October 2015, District staff conducted a site inspection at the Property to confirm findings by the Florida Department of Environmental Protection (FDEP) that filling and dredging activities were occurring on the Property without an Environmental Resource Permit (ERP).

4. District staff determined that approximately 1.4 acres of wetlands located on the Property had been filled and converted to improved pasture which included a gated livestock fence and an open-sided barn, and that a small pond had been dredged within the altered wetlands (Impacted Area). District staff further determined that the Owners did not possess an ERP from the District for the filling and dredging activities on the Property, and that the Owners were not exempted from obtaining an ERP pursuant to an agricultural exemption under Section 373.406(2), F.S.

5. On October 4, 2016, and August 6, 2019, the District issued Notice of Violation letters to the Owners advising that the filling and dredging of wetlands on the Property occurred without an ERP issued by the District, and that the Owners were in violation of Sections 373.413 and 373.430(1)(b), F.S., and Rule 62-330.020, F.A.C.

6. On February 26, 2020, District staff conducted a site inspection at the Property with the Owners and noted the same violations as observed previously. District staff informed the Owners that an ERP was required for the filling and dredging activities on the Property, and that the Owners were in violation of Chapter 373, F.S., and Rule 62-330, F.A.C. District staff further advised the Owners that the majority of the Impacted Area would need to be restored to its pre-impact condition in order to bring the Property into compliance.

7. As of the date of preparation of this Consent Order, no ERP has been issued by the District to the Owners authorizing the activities described in Paragraphs 3 through 6 herein and the Property remains in noncompliance.

8. The Parties have agreed to resolve all disputed issues regarding the violations set forth above, as described in this Consent Order.

#### CONCLUSIONS OF LAW

9. The District has jurisdiction over this matter pursuant to Chapter 373, Part IV, F.S., and Chapter 62-330, F.A.C.

10. Pursuant to Section 373.413, F.S., and Rule 62-330.020(2), F.A.C., a permit is required prior to the construction, alteration, operation, maintenance, removal, or abandonment of any regulated activity described in Chapter 373, F.S., or Chapter 62-330, F.A.C., that is not otherwise exempt from permitting requirements. It is a violation to fail to obtain any permit required by Chapter 373, Part IV, F.S., or by any rule or regulation adopted thereunder. See § 373.430, F.S.

11. The activities described in Paragraphs 3 through 6 herein are regulated activities that require an ERP pursuant to Rule 62-330.020(2), F.A.C., and are otherwise not exempt from permitting requirements.

12. The activities described in Paragraphs 3 through 6 constitute violations of Sections 373.413 and 373.430(1)(b), F.S., and Rule 62-330.020(2), F.A.C., in that the Owners did not obtain an ERP prior to engaging in filling and dredging activities on the Property.

## CORRECTIVE ACTIONS

13. Within one hundred twenty (120) days of approval of this Consent Order by the District's Governing Board, the Owners shall remove approximately 1.05 acres of fill from the Impacted Area as depicted in the "Bekkach Wetland Restoration" map attached hereto and incorporated by reference as Exhibit A. Because cross fencing through wetlands is typical in agricultural settings, the north-south fence on the east side of the Property and existing home may remain in place; however, restoration of the ground around the fence should be conducted as much as is practical. All fill within three (3) feet of the fence line shall be restored to natural ground elevation.

14. Within five (5) days of completion of the restoration activity provided in Paragraph 13 above, the Owners shall submit to the District a notification that the work was completed in accordance with the terms of this Consent Order. If, upon inspection of the Property after submission of the notification that the work was completed, District staff discover deviations or other violations of District rules, the Owners shall perform any necessary remedial work within thirty (30) days of issuance of written notification by the District. Within five (5) days of completion of the remedial work, the Owners shall submit to the District a notification that the remedial work was completed.

15. For the violations described in this Consent Order, the Owners shall pay to the District a penalty of Eight Thousand Dollars (\$8,000.00) for unauthorized construction activities and Three Thousand Five Hundred Dollars (\$3,500.00) in District enforcement costs, for a grand total of Eleven Thousand Five Hundred Dollars (\$11,500.00). Within thirty (30) days of the approval of this Consent Order by the District's Governing Board, the Owners shall pay to the District half of the penalties owed (\$4,000.00) and all



enforcement costs (\$3,500.00). If the restoration activity described in Paragraph 13 above is completed timely, the District shall waive the remaining \$4,000.00 in penalties. All payments are to be made by certified check or money order. If mailed, the address for payment is:

Southwest Florida Water Management District  
Finance Department  
2379 Broad Street  
Brooksville, FL 34604-6899

16. If the Owners fail to comply with Paragraphs 13 through 15 above, the remaining \$4,000.00 in penalties shall become due immediately upon the District's mailing of a demand letter to the Owners for payment and shall constitute a violation of this Consent Order.

17. The Owners may apply in writing to the District for an extension of the time limits contained in this Consent Order no later than five (5) days prior to the expiration of such time limit. The District may grant an extension of time in writing for good cause shown.

18. For each day of delay beyond any due date specified in this Consent Order, the Owners shall pay to the District an additional sum of One Hundred Dollars (\$100.00) per day. This additional sum shall be paid by the Owners upon the District's mailing of a demand letter to the Owners for payment. This provision shall not be construed to preclude the District's right to undertake other administrative, civil, or criminal action as appropriate in the event any due date is not met.

19. The Owners hereby waive any right to an administrative hearing or judicial review of the terms of this Consent Order. The Owners reserve the right to dispute any

allegation of noncompliance with the Consent Order, or any permit or approval issued hereunder.

20. For and in consideration of the complete and timely performance by the Owners of the obligations under this Consent Order, the District waives its right to pursue civil or administrative action for any violation described herein. If the Owners fail to completely and timely perform the obligations under this Consent Order, the District retains its right to pursue civil or administrative action for any violations described herein.

21. The District hereby expressly reserves and retains the right to initiate appropriate legal action against the Owners to prevent or prohibit the future violation of any applicable statutes, rules, or orders, except as specifically addressed in this Consent Order. The Owners acknowledge by the execution of this Consent Order that any future violation of Chapter 373, F.S., District rules, or the terms of any permit (including such as may be modified) may subject the Owners to administrative or civil suit in which penalties of up to Fifteen Thousand Dollars (\$15,000.00) per day per offense may be imposed, as provided in Section 373.129(5), F.S.

22. This Consent Order is not a license or a permit. The Owners shall not undertake any further construction activities without necessary District authorizations.

23. Entry of this Consent Order shall not relieve the Owners of the duty to comply with all applicable federal, state, and local laws, regulations, and ordinances.

24. The Owners shall allow authorized District representatives to access the Property at all reasonable times without prior notice to determine compliance with this Consent Order, Chapter 373, F.S., and District rules.

25. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69, 373.083(1) and 373.129, F.S.


26. The Owners acknowledge by the execution of this Consent Order that any future violation of Chapter 373, F.S., or District rules may result in any or all of the following: criminal prosecution, administrative action, or civil suit in which additional civil penalties and costs may be imposed.

27. The effectiveness of this Consent Order is subject to review and approval by the District's Governing Board. In the event the District's Governing Board does not approve this Consent Order, this Consent Order shall be null, void, and of no legal effect.

28. No modifications to the terms of this Consent Order are effective unless reduced to writing and executed by all Parties.

29. Any person, who is not a party to this Consent Order, whose substantial interests are affected by the District's action in this Consent Order may request an administrative hearing in accordance with Sections 120.569 and 120.57, F.S., and Chapter 28-106, F.A.C. A request for hearing that disputes the material facts on which the District's action is based must contain all elements required by Rule 28-106.201(2), F.A.C., including but not limited to: (1) an explanation of how the substantial interests of each person requesting the hearing will be affected by the District's action; (2) a statement of all disputed issues of material fact; (3) the Consent Order number; (4) the name, address and telephone number of the person requesting the hearing and, if applicable, of the person's representative; (5) a statement of when and how the person requesting the hearing received notice of the District's action; (6) a concise statement of the ultimate

facts alleged, including the specific facts warranting reversal or modification of the District's action; and (8) the relief sought, including precisely what action the requester wishes the agency to take. A request for hearing that does not dispute the material facts on which the District's action is based shall state that no material facts are in dispute, contain the same information set forth above (with the exception of item (2)), and otherwise comply with Rule 28-106.301(2), F.A.C. A request for hearing must be filed with (received by) the Agency Clerk of the District at the District's Tampa Service Office, 7601 US Highway 301 North, Tampa, Florida 33637-6759, or by facsimile transmission to the Agency Clerk at (813) 367-9776 or (813) 367-9772, within twenty-one (21) days of receipt of this notice. If this Consent Order is mailed, receipt is deemed to be the fifth day after the date on which the Consent Order is deposited in the United States mail. Because the administrative hearing process is designed to formulate final agency action, the timely filing of a request for hearing may result in the District's final action being different from its original action. Any person who is not a party to this Consent Order whose substantial interests will be affected by any such final action of the District has the right to request a hearing in accordance with the requirements set forth above. Failure to file a request for hearing within the specified time period shall constitute a waiver of any right any such person may have to request a hearing under Sections 120.569 and 120.57, F.S. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding the District's action in this matter is not available prior to the filing of a request for hearing.

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January 29, 2021

Date: \_\_\_\_\_

Approved by the Governing Board of the Southwest Florida Water Management District  
this \_\_\_\_ day of \_\_\_\_\_, 2021.

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

Approved as to Legal Form and Content
_____
Attorney

Attest: \_\_\_\_\_  
Rebecca Smith, Secretary

Filed this \_\_\_\_ day of  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
Deputy Agency Clerk

CONSENT ORDER  
ABDELIJALIL and CINDY LOU BEKKACH  
CT NO. 380586  
POLK COUNTY, FLORIDA

**CONSENT AGENDA****February 23, 2021****General Counsel's Report: Approval of Consent Order Between SWFWMD and Arthur L. Schaer Revocable Trust - Unauthorized Construction - CT No. 383658 - Pasco County**

Arthur Schaer is trustee of the Arthur L. Schaer Revocable Trust, which holds title to real property located at 2825 Hunt Road, Land O' Lakes, Florida (Property). District staff first inspected the Property on April 25, 2016 and identified several improvements that had been constructed without an Environmental Resource Permit (ERP). These improvements were constructed between 1999 and 2004 and included several pole barns, an impervious parking area for heavy equipment, and the placement of fill material within 1.55-acres of a freshwater forested wetland.

District staff issued the first Notice of Unauthorized Activities (Notice) to Mr. Schaer on May 4, 2016, and a second Notice on December 30, 2016, after providing an extension to apply for an ERP. In the time since, he provided information that, in constructing the improvements, he relied on a 1987 determination (1987 Determination) by the Department of Environmental Regulation (DER) that the wetlands on the Property were not jurisdictional and therefore did not require a dredge and fill permit to be impacted. However, the District determined that the 1987 Determination did not absolve Mr. Schaer from obtaining an ERP for future construction activities. In applying the wetland delineation methodology that was adopted in rule in Chapter 62-340, Florida Administrative Code, on July 1, 1994, the wetlands located on the Property were jurisdictional at the time they were impacted between 1999 and 2004. Further, the typical binding determination carried a 5-year expiration date, after which a property owner would not have a reasonable expectation that previously bound wetland lines would remain valid.

A final Notice was issued on May 21, 2019. Mr. Schaer responded to the final Notice and attended a pre-application meeting with District staff on June 26, 2019. Although Mr. Schaer did not submit the required ERP application at that time, the Parties' representatives discussed alternative options for resolving the issue through 2020. Ultimately, Mr. Schaer agreed to enter into a Consent Order that requires him to submit an ERP application within 60 days of approval of the Consent Order and complete construction of a surface water management system pursuant to a prescribed timeline. The ERP may allow Mr. Schaer to restore or mitigate impacts to the wetland.

Mr. Schaer agreed that total penalties, enforcement costs, and attorneys' fees should be assessed at \$29,250.00, which will be waived by the District upon the successful and timely completion of the required corrective actions. Should Mr. Schaer default on any of the Consent Order's corrective actions, he has agreed to pay the assessed amount in full.

**Staff Recommendation:**

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

**Presenter:**

Christopher A. Tumminia, Deputy General Counsel

BEFORE THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

ORDER NO. SWF 21 - \_\_\_\_

IN RE:       ARTHUR L. SCHAEER REVOCABLE TRUST AGREEMENT  
              ARTHUR L. SCHAEER, TRUSTEE  
              2825 HUNT ROAD, LAND O' LAKES  
              PASCO COUNTY, FLORIDA  
              C.T. NO. 383658

**CONSENT ORDER**

Pursuant to Sections 120.57(4) and 373.083, Florida Statutes ("F.S."), this Consent Order is entered into by and between the Southwest Florida Water Management District ("District"), and Arthur L. Schaer, Trustee of Arthur L. Schaer Revocable Trust Agreement ("Schaer"), collectively referred to as "the Parties," to settle certain matters at issue between the Parties. The Parties hereby voluntarily agree to the following findings of fact, conclusions of law, and corrective actions:

**FINDINGS OF FACT**

1.       The District is the administrative agency charged with the responsibility to conserve, protect, manage, and control the water resources within its geographic boundaries and to administer and enforce Chapter 373, F.S., and the rule promulgated thereunder as Chapter 62-330, Florida Administrative Code ("F.A.C.").

2.       Schaer owns real property located at 2825 Hunt Road, Land O' Lakes, Florida, further identified by Pasco County Property Appraiser Parcel ID No. 26-26-18-0000-00100-0000 ("Property"). Schaer has owned the Property at all times relevant to this matter.

3.       District staff inspected the Property on April 25, 2016, and determined that several improvements had been constructed at the Property without an Environmental

Resource Permit. These improvements, made between 1999 and 2004, include the construction of several pole barns covering 0.23 acres of the Property, the placement of 0.75-acres of impervious material for heavy equipment parking and storage, and the placement of fill material within 1.55-acres of a freshwater forested wetland. The wetland impacts correlate to a functional loss of 0.38 units pursuant to the Uniform Mitigation Assessment Method.

4. District staff issued a Notice of Unauthorized Activities to Schaer on May 4, 2016. Following this initial notice, Schaer informed District staff that he would submit an application for an Environmental Resource Permit ("ERP"). On August 1, 2016, District staff granted a time extension for the application to be submitted. However, despite regular communication and multiple meetings between the Parties, an application was not submitted.

5. Two Final Notices of Unauthorized Activities was issued to Schaer on December 30, 2016, and May 21, 2019. At a pre-application meeting on June 26, 2019, the Parties again discussed the requirements for an ERP application. The last formal correspondence on this matter was issued by the District on October 29, 2019, and requested that the ERP application be submitted within 30 days.

6. As of the date of this Consent Order, the District has not received an ERP application and the Property remains in non-compliance.

7. The Parties have agreed to resolve all disputed issues regarding the violations set forth above as described in this Consent Order.



## CONCLUSIONS OF LAW

8. The District has jurisdiction over this matter pursuant to Chapter 373, Part IV, F.S., and Chapter 62-330, F.A.C.

9. Pursuant to Section 373.413, F.S., and Rule 62-330.020(2), F.A.C., a permit is required prior to the construction, alteration, operation, maintenance, removal, or abandonment of any regulated activity described in Chapter 373, F.S., or Rule 62-330, F.A.C., that is not otherwise exempt from permitting requirements. It is a violation of Section 373.430, F.S., to fail to obtain any permit required by Chapter 373, Part IV, F.S., or by any rule promulgated thereunder.

10. The activities described in paragraph three (3) herein constitute the construction and alteration of a surface water management system and the filling of wetlands, as defined in the ERP Applicant's Handbook Volume I, Sections 2.0(a)(18) and (44), incorporated by reference in Rule 62-330.010(4), F.A.C.

11. The activities described in paragraph three (3) herein are regulated activities that require an ERP pursuant to Rule 62-330.020(2), F.A.C., and are not exempt from permitting requirements.

12. The activities described in paragraph three (3) herein constitute a violation of Section 373.413 and 373.430(1)(b), F.S., and Rule 62-330.020(2), F.A.C.

## CORRECTIVE ACTIONS

13. Schaer shall not engage in any further activity on the Property that constitutes the construction, alteration, operation, or abandonment of a project subject to regulation pursuant to Chapter 373, F.S., unless and until an ERP is obtained from the

District. Any further activity shall be authorized by and conducted in accordance with an ERP.

14. Within sixty (60) days of this Consent Order's approval by the District's Governing Board, Schaer shall submit an ERP application ("Application") to request authorization to construct and operate a surface water management system at the Property.

15. Schaer shall comply with and respond to all requests for additional information or clarification relating to the Application within sixty (60) days of receiving such request. Schaer shall obtain District approval of an ERP within one hundred eighty (180) days of submitting the Application.

16. Within one hundred twenty (120) days of the ERP's approval, Schaer shall complete all construction authorized and required by the ERP. Within thirty (30) days of completion of the construction authorized by the ERP, Schaer shall submit to the District a completed As-Built Certification and Request for Conversion to Operation Phase form certifying that the construction of the Property has been completed in conformance with the ERP. If the District discovers any deviations from the permitted design or violations of District rules, Schaer shall perform any necessary remedial work within forty-five (45) days of issuance of written notification by the District, and shall submit to the District a new As-Built Certification and Request for Conversion to Operation Phase form. The Parties agree that any permit condition violations of the issued ERP shall be considered a violation of this Consent Order.

17. The Parties agree that a penalty in the amount of Twenty-Six Thousand Five Hundred Dollars (\$26,500.00), enforcement costs in the amount of Two Thousand

Dollars (\$2,000.00), and attorneys' fees in the amount of Seven Hundred Fifty Dollars (\$750.00) shall be assessed for the violations and enforcement efforts described herein for a total amount of Twenty-Nine Thousand Two Hundred Fifty Dollars (\$29,250.00). However, in resolution of this matter, the balance of Twenty-Nine Thousand Two Hundred Fifty Dollars (\$29,250.00) shall be waived by the District upon Schaer's timely completion of the corrective actions provided in paragraphs 13 – 16 herein.

18. If Schaer fails to complete any corrective action within the timeframes described in paragraphs 13 – 16, or engages in additional unauthorized construction or alteration of a surface water management system, the unpaid balance of the total agreed amount of Twenty-Nine Thousand Two Hundred Fifty Dollars (\$29,250.00) shall become immediately due to the District upon the District's written demand for such.

19. Schaer may apply in writing to the District for an extension of the time limits contained in this Consent Order no later than five (5) days prior to the expiration of such time limit. The District may grant an extension of time in writing for good cause shown.

20. For each day of delay beyond any due date specified in this Consent Order, Schaer shall pay to the District an additional sum of Five Hundred Dollars (\$500.00) per day. This additional sum shall be paid by Schaer upon the District's mailing of a demand letter to Schaer for payment. This provision shall not be construed to preclude the District's right to undertake other administrative, civil, or criminal action as appropriate in the event any due date is not met.

21. Schaer hereby waives any right to an administrative hearing or judicial review of the terms of this Consent Order. Schaer reserves the right to dispute any

allegation of noncompliance with the Consent Order, or any permit or approval issued hereunder.

22. For and in consideration of the complete and timely performance by Schaer of the obligations under this Consent Order, the District waives its right to pursue civil or administrative action for any violation described herein. If Schaer fails to completely and timely perform the obligations under this Consent Order, the District retains its right to pursue civil or administrative action for any violations described herein.

23. The District hereby expressly reserves and retains the right to initiate appropriate legal action against Schaer to prevent or prohibit the future violation of any applicable statutes, rules, or orders, except as specifically addressed in this Consent Order. Schaer acknowledges by the execution of this Consent Order that any future violation of Chapter 373, F.S., District rules, or the terms of any permit (including such as may be modified) may subject Schaer to criminal prosecution, administrative action, or civil suit in which penalties of up to Ten Thousand Dollars (\$10,000.00) per day per offense may be imposed, as provided in Section 373.129(5), F.S.

24. This Consent Order is not a license or a permit. Schaer shall not undertake any further construction activities without necessary District authorizations.

25. Entry of this Consent Order shall not relieve Schaer of the duty to comply with all applicable federal, state, and local laws, regulations, and ordinances.

26. Schaer shall allow authorized District representatives to access the Property at all reasonable times without prior notice to determine compliance with this Consent Order, Chapter 373, F.S., and District rules.

27. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69, 373.083(1), and 373.129, F.S.


28. The effectiveness of this Consent Order is subject to review and approval by the District's Governing Board. In the event the District's Governing Board does not approve this Consent Order, this Consent Order shall be null, void, and of no legal effect.

29. No modifications of the terms of this Consent Order are effective unless reduced to writing and executed by all Parties.

30. Any person, who is not a party to this Consent Order, whose substantial interests are affected by the District's action in this Consent Order may request an administrative hearing in accordance with Sections 120.569 and 120.57, F.S., and Chapter 28-106, F.A.C. A request for hearing that disputes the material facts on which the District's action is based must contain all elements required by Rule 28-106.201(2), F.A.C., including but not limited to: (1) an explanation of how the substantial interests of each person requesting the hearing will be affected by the District's action; (2) a statement of all disputed issues of material fact; (3) the Consent Order number; (4) the name, address and telephone number of the person requesting the hearing and, if applicable, of the person's representative; (5) a statement of when and how the person requesting the hearing received notice of the District's action; (6) a concise statement of the ultimate facts alleged, including the specific facts warranting reversal or modification of the District's action; and (7) the relief sought, including precisely what action the requester wishes the agency to take. A request for hearing that does not dispute the material facts on which the District's action is based shall state that no material facts are in dispute,

contain the same information set forth above (with the exception of item (2)), and otherwise comply with Rule 28-106.301(2), F.A.C. A request for hearing must be filed with (received by) the Agency Clerk of the District at the District's Tampa Service Office, 7601 US Highway 301 North, Tampa, Florida 33637-6759, or by facsimile transmission to the Agency Clerk at (813) 367-9776 or (813) 367-9772, within twenty-one (21) days of receipt of this notice. If this Consent Order is mailed, receipt is deemed to be the fifth day after the date on which the Consent Order is deposited in the United States mail. Because the administrative hearing process is designed to formulate final agency action, the timely filing of a request for hearing may result in the District's final action being different from its original action. Any person who is not a party to this Consent Order whose substantial interests will be affected by any such final action of the District has the right to request a hearing in accordance with the requirements set forth above. Failure to file a request for hearing within the specified time period shall constitute a waiver of any right any such person may have to request a hearing under Sections 120.569 and 120.57, F.S. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding the District's action in this matter is not available prior to the filing of a request for hearing.

**ARTHUR L. SCHAEER**  
**REVOCABLE TRUST AGREEMENT**

  
\_\_\_\_\_  
Arthur L. Schaer, Trustee

Approved by the Governing Board of the Southwest Florida Water Management District  
this \_\_\_\_ day of \_\_\_\_\_, 2021.

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

Approved as to Legal Form and Content

Attest: \_\_\_\_\_  
Rebecca Smith, Secretary

\_\_\_\_\_  
Attorney

Filed this \_\_\_\_ day of  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
Deputy Agency Clerk

CONSENT ORDER  
ARTHUR L. SCHAEFER REVOCABLE TRUST AGREEMENT  
CT NO. 383658  
PASCO COUNTY, FLORIDA

**CONSENT AGENDA****February 23, 2021****General Counsel's Report: Approval of Consent Between SWFWMD and Travel Imagination LLC - Unauthorized Construction - CT Number 40329 - Manatee County**

Travel Imagination LLC (Property Owner) owns property located at 5517 Lorraine Road Bradenton, Florida, 34211 (Property). Frederick Jackson (Jackson) formerly owned real property located at 5427 Lorraine Road Bradenton, Florida 34211 (Adjacent Property). On April 18, 2019, the District received a complaint that unauthorized construction activities were occurring on the Property and the Adjacent Property. On April 20, 2019, the District conducted a site inspection to determine if activities requiring District authorization had occurred, and they identified actions necessary to remediate activities that were conducted without appropriate District authorization. District staff observed that construction of a recreational and boat parking facility had occurred on both the Property and the Adjacent Property, which includes District staff determined that 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 to Mr. Jackson, 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. Property Owner is currently working with an engineer to prepare an Environmental Resource Permit (ERP) application for submittal to the District.

The Property Owner subsequently agreed to execute a Consent Order that includes a penalty in the amount of \$28,500.00 and enforcement costs in the amount of \$2,000.00. The Property Owner has agreed to pay \$5,700.00 in assessed penalties and \$2,000.00 in enforcement costs. Furthermore, the Consent Order provides a 30-day timeline by which the Property Owner must complete and submit ERP application for the Property. The remaining balance in penalties will be waived by the District upon the successful and timely completion of the required corrective actions. Should the Property Owner default on any requirements under the Consent Order, he has agreed to pay the assessed amount in full.

**Staff Recommendation:**

- Approve the Consent Order.
- 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.

**Presenter:**

Allison Dhand, Staff Attorney



BEFORE THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

ORDER NO. SWF 21-XXX

IN RE: TRAVEL IMAGINATION LLC  
RV BOAT & STORAGE – LORRAINE ROAD  
CT NO.: 403929  
MANATEE COUNTY, FLORIDA

**CONSENT ORDER**

Pursuant to Sections 120.57(4) and 373.083, Florida Statutes (F.S.), this Consent Order is entered into by and between the Southwest Florida Water Management District (District) and Travel Imagination LLC (Respondent), collectively referred to as "the Parties," to settle certain matters at issue between the Parties. The Parties hereby voluntarily agree to the following findings of fact, conclusions of law, and corrective actions:

FINDINGS OF FACT

1. The District is the administrative agency charged with the responsibility to conserve, protect, manage, and control the water resources within its geographic boundaries and to administer and enforce Chapter 373, F.S., and the rules promulgated thereunder as Chapter 62-330, Florida Administrative Code (F.A.C.).

2. The Respondent owns real property located at 5517 Lorraine Road, Bradenton, Florida 34211 (Respondent Property). The Respondent Property is further identified by Parcel ID Number 581910559 by the Manatee County Property Appraiser.

3. Frederick Jackson (Jackson) formerly owned real property located at 5427 Lorraine Road, Bradenton, Florida 34211 adjacent to the Respondent Property (Adjacent Property). The Adjacent Property is further identified by Parcel ID Number 581910452 by the Manatee County Property Appraiser.

4. On April 18, 2019, the District received a complaint stating that unauthorized constructions activities were occurring at the Respondent Property and the Adjacent Property.

5. On April 20, 2019, District staff conducted an initial site visit at the Respondent Property and observed unauthorized construction on both the Respondent Property and the Adjacent Property. District staff observed that construction of a recreational and boat parking facility had occurred, which includes 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).

6. On May 17, 2019 the District issued a Notice of Unauthorized Activities to Respondent and Jackson, concerning the unauthorized activities discussed in paragraph five (5) herein. The Notice advised the Respondent to contact the District to resolve this issue.

7. A Final Notice of Unauthorized Activities was issued to the Respondent and Jackson on November 25, 2019. The Notice advised Respondent to contact District staff within 30 days of the letter.

8. District staff conducted a second site visit on January 31, 2020 and construction activities had not ceased. Additionally, staff observed an area of 6.00 acres had been impacted by unauthorized construction activities (Impacted Area) on the Respondent Property and a portion of the Adjacent Property. Approximately 3.00 acres of the Impacted Area had been covered with impervious surface. The Impacted Area is identified on the map attached hereto and incorporated by reference as Exhibit "A."

9. As of the date of this Consent Order, a portion of the violations referenced in paragraphs five (5) and six (6) herein have not been corrected and both the Respondent Property and the Adjacent Property remain in non-compliance.

10. The Parties have agreed to resolve all disputed issues regarding the violations set forth above as described in this Consent Order.

#### CONCLUSIONS OF LAW

11. The District has jurisdiction over this matter pursuant to Chapter 373, Part IV, F.S., and Chapter 62-330, F.A.C.

12. Pursuant to Section 373.413, F.S., and Rule 62-330.020(2), F.A.C., a permit is required prior to the construction, alteration, operation, maintenance, removal, or abandonment of any regulated activity described in Chapter 373, F.S., or Rule 62-330, F.A.C., that is not otherwise exempt from permitting requirements. It is a violation of Section 373.430, F.S., to fail to obtain any permit required by Chapter 373, Part IV, F.S., or by any rule promulgated thereunder.

13. The activities described in paragraphs five (5) through eight (8) herein constitute the construction or alteration of a surface water management system, the dredging of wetlands, and the filling of wetlands, as defined in the Environmental Resource Permit (ERP) Applicant's Handbook Volume I, Sections 2.0(a)(18), (33) and (44), incorporated by reference in Rule 62-330.010(4), F.A.C.

14. The activities described in paragraphs five (5) through eight (8) herein are regulated activities that require an ERP pursuant to Rule 62-330.020(2), F.A.C., and are otherwise not exempt from permitting requirements.

15. The activities described in paragraphs five (5) through eight (8) herein constitute a violation of section 373.413 and 373.430(1)(b), F.S., and rule 62-330.020(2), F.A.C.

#### CORRECTIVE ACTIONS

16. The Respondent shall not engage in any further activity on the Properties that constitutes the construction, alteration, operation, or abandonment of a project subject to regulation pursuant to Chapter 373, F.S., unless and until an ERP is obtained from the District for Respondents Property. Any further activity shall be authorized by and conducted in accordance with an ERP.

17. Within thirty (30) days of this Consent Order's approval by the District's Governing Board, the Respondent shall submit an ERP application (Application) to request authorization to construct and operate the stormwater management system at the Respondent Property.

18. The Respondent shall comply with and respond to any District request for additional information or clarification relating to the ERP Application referenced in paragraph 17

herein within 30 days of receiving such request. The Respondent shall obtain District approval of an ERP no later than one hundred twenty (120) days after the submittal of the ERP Application contemplated herein.

19. Within ninety (90) days of the issuance of the ERP, The Respondent shall complete all construction authorized and required by the ERP. Within thirty (30) days of completion of the construction authorized by the ERP, the Respondent shall submit to the District a complete As-Built Certification and Request for Conversion to Operation Phase form certifying that the construction of the Property has been completed in conformance with the ERP and otherwise satisfies all District requirements. If the District discovers any deviations from the permitted design or violations of District rules, the Respondent shall perform any necessary remedial work within thirty (30) days of issuance of written notification by the District, and shall submit to the District a new As-Built Certification and Request for Conversion to Operation Phase form. The Parties agree that any permit condition violations of the issued ERP shall be deemed a violation of this Consent Order.

20. In resolution of this matter, the Parties agree that the penalties payable to the District shall total Twenty Eight Thousand Five Hundred Dollars (\$28,500.00), and that the enforcement costs payable to the District shall total Two Thousand Dollars (\$2,000.00), for a total amount of Thirty Thousand Five Hundred Dollars (\$30,500).

21. The Respondent shall pay to the District Five Thousand Seven Hundred Dollars (\$5,700.00) in assessed penalties and Two Thousand Dollars (\$2,000.00) in enforcement costs by certified check or money order according to a four (4) month payment plan. The Respondent shall make payments equal to One Thousand Nine Hundred and Twenty-Five Dollars (\$1,925.00) due on the first day of each month beginning February 1, 2021. If mailed, the address for payment is:

Southwest Florida Water Management District  
Finance Department  
2379 Broad Street

22. The balance of the agreed penalty, totaling Twenty Two Thousand Eight Hundred Dollars (\$22,800.00), shall be waived by the District upon the Respondent's timely completion of the corrective actions listed in paragraphs 16 – 21, and timely and complete payments pursuant to paragraphs 22 and 23 herein.

23. If the Respondent fails to complete any corrective action described in paragraphs 16 – 22 within the timeframes described herein, or fails to make any payment described in paragraph 22 herein, or engages in the unauthorized construction or alteration of a surface water management system at the Project or elsewhere, the unpaid balance of Twenty Two Thousand Eight Hundred Dollars (\$22,800.00), shall become immediately due to the District upon the District's written demand for such. The Respondent may apply in writing to the District for an extension of the time limits contained herein no later than five (5) days prior to the expiration of such time limit. The District may grant an extension of time in writing for good cause shown.

24. The Respondent hereby waives any right to an administrative hearing or judicial review of the terms of this Consent Order. The Respondent reserves the right to dispute any allegation of noncompliance with the Consent Order, or any permit or approval issued hereunder.

25. For and in consideration of the complete and timely performance by the Respondent of the obligations under this Consent Order, the District waives its right to pursue civil or administrative action for any violation described herein. If the Respondent fails to completely and timely perform the obligations under this Consent Order, the District retains its right to pursue civil or administrative action for any violations described herein.

26. The District hereby expressly reserves and retains the right to initiate appropriate legal action against the Respondent to prevent or prohibit the future violation of any applicable statutes, rules, or orders, except as specifically addressed in this Consent Order. The Respondent acknowledges by the execution of this Consent Order that any future violation of Chapter 373, F.S., District rules, or the terms of any permit (including such as may be modified) may subject

the Respondent to criminal prosecution, administrative action, or civil suit in which penalties of up to Ten Thousand Dollars (\$10,000.00) per day per offense may be imposed, as provided in Section 373.129(5), F.S.

27. This Consent Order is not a license or a permit. The Respondent shall not undertake any further construction activities without necessary District authorizations.

28. Entry of this Consent Order shall not relieve the Respondent of the duty to comply with all applicable federal, state, and local laws, regulations, and ordinances.

29. The Respondent shall allow authorized District representatives to access the Property at all reasonable times with prior notice to determine compliance with this Consent Order, Chapter 373, F.S., and District rules.

30. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69, 373.083(1), and 373.129, F.S.

31. The effectiveness of this Consent Order is subject to review and approval by the District's Governing Board. In the event the District's Governing Board does not approve this Consent Order, this Consent Order shall be null, void, and of no legal effect.

32. No modifications of the terms of this Consent Order are effective unless reduced to writing and executed by all Parties.

33. Any person, who is not a party to this Consent Order, whose substantial interests are affected by the District's action in this Consent Order may request an administrative hearing in accordance with Sections 120.569 and 120.57, F.S., and Chapter 28-106, F.A.C. A request for hearing that disputes the material facts on which the District's action is based must contain all elements required by Rule 28-106.201(2), F.A.C., including but not limited to: (1) an explanation of how the substantial interests of each person requesting the hearing will be affected by the District's action; (2) a statement of all disputed issues of material fact; (3) the Consent Order number; (4) the name, address and telephone number of the person requesting the hearing and, if applicable, of the person's representative; (5) a statement of when and how the person

requesting the hearing received notice of the District's action; (6) a concise statement of the ultimate facts alleged, including the specific facts warranting reversal or modification of the District's action; and (7) the relief sought, including precisely what action the requester wishes the agency to take. A request for hearing that does not dispute the material facts on which the District's action is based shall state that no material facts are in dispute, contain the same information set forth above (with the exception of item (2)), and otherwise comply with Rule 28-106.301(2), F.A.C. A request for hearing must be filed with (received by) the Agency Clerk of the District at the District's Tampa Service Office, 7601 US Highway 301 North, Tampa, Florida 33637-6759, or by facsimile transmission to the Agency Clerk at (813) 367-9776 or (813) 367-9772, within twenty-one (21) days of receipt of this notice. If this Consent Order is mailed, receipt is deemed to be the fifth day after the date on which the Consent Order is deposited in the United States mail. Because the administrative hearing process is designed to formulate final agency action, the timely filing of a request for hearing may result in the District's final action being different from its original action. Any person who is not a party to this Consent Order whose substantial interests will be affected by any such final action of the District has the right to request a hearing in accordance with the requirements set forth above. Failure to file a request for hearing within the specified time period shall constitute a waiver of any right any such person may have to request a hearing under Sections 120.569 and 120.57, F.S. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding the District's action in this matter is not available prior to the filing of a request for hearing.

34. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Consent Order warrants that he or she is duly authorized to do so and to bind the respective party to the Consent Order.

By: 

Rolf Nielsen, AMBR

Date: \_\_\_\_\_

Approved by the Governing Board of the Southwest Florida Water Management District  
this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Approved as to Legal Form and  
Content

\_\_\_\_\_  
Allison Dhand, Staff Attorney

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

Attest: \_\_\_\_\_  
Rebecca Smith, Secretary

Filed this \_\_\_\_\_ day of \_\_\_\_\_ (Seal)  
\_\_\_\_\_ 2021.

\_\_\_\_\_  
Deputy Agency Clerk

CONSENT ORDER  
RV & BOAT STORAGE – LORRAINE ROAD  
CT NO.: 403929  
MANATEE COUNTY, FLORIDA



**CONSENT AGENDA****February 23, 2021****General Counsel's Report: Approval of Consent Order Between SWFWMD and Econo Boat and RV Storage of Westchase, LLC - Unauthorized Construction - CT No. 405894 - Pinellas County**

Econo Boat and RV Storage of Westchase, LLC (Respondent), is the prior owner of the property located at 406 Racetrack Rd. North, Oldsmar, Florida (Property). On August 19, 2019, District staff received a complaint from the neighboring property owner (Complainant) concerning unauthorized activities occurring on the Property. On August 22, 2019, District staff conducted a site visit and found that more than 4,000 feet of impervious and semi-impervious material had been placed on the Property without an Environmental Resource Permit (ERP) for the purpose of creating a vehicle storage area. District staff attempted to work with Respondent to remedy the unauthorized construction and restore the area to its original condition. However, the violations were not corrected and on December 8, 2020, the District issued a Notice of Violation and proposed Consent Order to the Respondent.

On December 8, 2020, Respondent advised District staff that the Property had been sold on November 19, 2020, to Richard Norgart (Owner). On December 12, 2020, Respondent executed the proposed Consent Order and paid the full amount of \$2,930.00 in penalties and \$3,500.00 in enforcement costs and fees, for a total amount of \$6,430.00.

On December 22, 2020, the Owner contacted the District and indicated he intends to work with staff to obtain an ERP for the Property. The Owner has hired the Avid Group, who also represents the neighboring/Complainant property, to facilitate the project. If the Owner is unable to bring the Property into compliance in a timely manner, District staff will initiate further enforcement action to correct the violations.

**Staff Recommendation:**

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

**Presenter:**

Ashley Allen, Staff Attorney

BEFORE THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

ORDER NO. SWF 21-

IN RE: ECONO BOAT AND RV STORAGE OF WESTCHASE, LLC  
UNAUTHORIZED CONSTRUCTION  
PINELLAS COUNTY  
CT NO. 405894

CONSENT ORDER

Pursuant to Sections 120.57(4) and 373.083 of the Florida Statutes (F.S.), this Consent Order is entered into between the Southwest Florida Water Management District (District) and Econo Boat and RV Storage of Westchase, LLC (Respondent) to settle certain matters at issue between the Parties. The Parties to this Consent Order hereby voluntarily agree as follows:

FINDINGS OF FACT

1. The District is the administrative agency charged with the responsibility to conserve, protect, manage, and control water resources within its boundaries and to administer and enforce Chapter 373, F.S., and the rules promulgated thereunder in Chapter 62-330 of the Florida Administrative Code (F.A.C.).
2. Econo Boat and RV Storage of Westchase, LLC owns a parcel of real property located at 406 Racetrack Rd. North, Oldsmar, FL (Property).
3. On August 19, 2019, District staff received a complaint about flooding affecting the neighboring property.
4. On August 22, 2019, District staff conducted a site visit at the Property and observed land was cleared and filled with crushed concrete and fill material without an Environmental Resource Permit (ERP) (Impacted Area).

5. Respondent does not have an ERP for the construction of the additional impervious/semi-impervious surface area serving as vehicle storage at the Property.

6. On November 20, 2019, a Notice of Unauthorized Activities/Complaint letter was sent to Mr. David Raplee, registered agent and manager/member for Respondent, informing him that the site was not in compliance with Chapter 373, Part IV of the F.S. and the rules promulgated thereunder in Chapter 62-330, F.A.C.

7. Mr. Raplee acknowledged the letter and attempted to hire an engineer to assist him with the complaint. On June 2, 2020, Mr. Raplee sent a letter to the District advising he would not, in fact, be hiring an engineer and would instead restore the Impacted Area back to its original condition.

8. As of the date of this Consent Order, Respondent has failed to bring the Property into compliance with the District's rules and regulations.

9. Respondent agrees to take the below corrective actions.

#### CONCLUSIONS OF LAW

10. The District has jurisdiction over this matter pursuant to Chapter 373, Part IV, F.S., and Chapter 62-330, F.A.C.

11. Pursuant to Section 373.413, F.S., and Rule 62-330.020(2), F.A.C., a permit is required prior to the construction, alteration, operation, maintenance, removal, or abandonment of any regulated activity described in Chapter 373, F.S., or Rule 62-330, F.A.C., that is not otherwise exempt from permitting requirements. It is a violation of Section 373.430, F.S., to fail to obtain any permit required by Chapter 373, Part IV, F.S., or by any rule promulgated thereunder.

12. The activities described in paragraphs 4–8 herein constitute regulated activities. Construction on the project site and the stormwater management system that serves such construction must comply with Chapter 373 Part IV, F.S., and to Rule 62-330.020(2), F.A.C., promulgated thereunder.

13. The activities described in paragraph 4–8 herein constitute a violation of Section 373.413 and 373.430(1)(b), F.S., and Rule 62-330.020(2), F.A.C.

#### CORRECTIVE ACTIONS

14. In resolution of all disputed issues regarding the activities described herein, Respondent agrees to the following:

15. Respondent shall complete one of the two proposed corrective actions plans described herein:

- a. Option 1: Obtain an Environmental Resource Permit:
  - i. Within 60 days after approval of this Consent Order by the District's Governing Board, Respondent shall apply for the necessary ERP with the District. Respondent shall comply with all District requests for additional information or clarification regarding the application and obtain District approval of the ERP within 120 days of submitting the application.
  - ii. Within 60 days after the District issues the ERP, Respondent shall complete construction of the stormwater management system.
  - iii. Respondent shall comply with all other provisions in the ERP including deadlines to provide a statement of completion and as-built certifications as may be required.

b. Option 2: Remove Impervious/Semi-Impervious Surface Area Down to 4,000 Square Feet or Less:

- i. Within 15 days after approval of this Consent Order by the District's Governing Board, Respondent shall complete removal of the unauthorized impervious/semi-impervious surface area placed on the Property. After removal is complete, Respondent shall allow the District access to the Property to inspect the restored area. Respondent shall not replace any material thereafter without the required permits.

16. Respondent shall pay to the District a penalty in the amount of \$2,930.00, investigative/enforcement costs of \$2,000.00, and attorneys' fees of \$1,500.00, for a total amount of \$6,430.00 by certified check or money order within 30 days of approval of this Consent Order by the District's Governing Board. If mailed, the address for payment is:

Southwest Florida Water Management District  
Finance Department  
2379 Broad Street  
Brooksville, Florida 34604-6899

17. Respondent may apply, in writing, to the District for an extension of the time limits contained in this Consent Order no later than five (5) days prior to the expiration of such time limit. The District may grant an extension of time in writing for good cause shown.

18. For each day of delay beyond any due date specified in this Consent Order, Respondent shall pay to the District an additional sum of \$100.00 per day. This additional sum shall be paid by him upon the District's mailing of a demand letter for payment. This provision shall not be construed to preclude the District's right to undertake other administrative, civil, or criminal action as appropriate in the event any due date is not met.

(including such as may be modified) may subject him to administrative or civil suit in which penalties of up to ten thousand and 00/100 Dollars (\$10,000.00) per day per offense may be imposed, as provided in Section 373.129(5), F.S.

25. Respondent hereby waives any right to an administrative hearing or judicial review of the terms of this Consent Order. He reserves the right to dispute any allegation of noncompliance with the Consent Order, or any permit or approval issued hereunder.

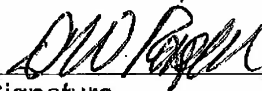
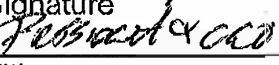
26. Any person who is not a party to this Consent Order whose substantial interests are affected by the District's action in this Consent Order may request an administrative hearing in accordance with Sections 120.569 and 120.57, F.S., and Chapter 28-106, F.A.C. A request for hearing that disputes the material facts on which the District's action is based must contain all elements required by Rule 28-106.201(2), F.A.C., including but not limited to: (1) an explanation of how the substantial interests of each person requesting the hearing will be affected by the District's action; (2) a statement of all disputed issues of material fact; (3) the Consent Order number; (4) the name, address, any e-mail address and telephone number of the person requesting the hearing and, if applicable, of the person's representative; (5) a statement of when and how the person requesting the hearing received notice of the District's action; (6) a concise statement of the ultimate facts alleged, including the specific facts warranting reversal or modification of the District's action; and (7) the relief sought, including precisely what action the requester wishes the agency to take. A request for hearing that does not dispute the material facts on which the District's action is based shall state that no material facts are in dispute, contain the same information set forth above (except for item (2)), and otherwise comply with Rule 28-106.301(2), F.A.C. A request for hearing must be filed

with (received by) the Agency Clerk of the District at the District's Tampa Service Office: 7601 U.S. Highway 301 North, Tampa, Florida 33637; Phone: (813) 985-7481; Fax: (813) 367-9776 within twenty-one (21) days of receipt of this notice. If this Consent Order is mailed, receipt is deemed to be the fifth day after the date on which the Consent Order is deposited in the United States mail. Because the administrative hearing process is designed to formulate final agency action, the timely filing of a request for hearing may result in the District's final action being different from its original action. Any person who is not a party to this Consent Order whose substantial interests will be affected by any such final action of the District has the right to request a hearing in accordance with the requirements set forth above. Failure to file a request for hearing within the specified time period shall constitute a waiver of any right any such person may have to request a hearing under Sections 120.569 and 120.57, F.S. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding the District's action in this matter is not available prior to the filing of a request for hearing.

27. The effectiveness of this Consent Order is subject to review and approval by the District Governing Board. In the event the District Governing Board shall not approve this Consent Order, this Consent Order shall be null, void, and of no legal effect.

28. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by all Parties.

**ECONO RV AND BOAT STORAGE OF  
WESTCHASE, L.L.C.**

  
\_\_\_\_\_  
Signature  
  
\_\_\_\_\_  
Title  
Date: 12-14-2020

Approved by the Governing Board of the Southwest Florida Water Management District

this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

By:

\_\_\_\_\_  
Kelly S. Rice, Chair

Attest:

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

Approved as to Legal Form and  
Content

\_\_\_\_\_  
Ashley G. Allen  
Office of General Counsel

(Seal)

Filed this \_\_\_\_\_ day of

\_\_\_\_\_ 2021.

\_\_\_\_\_  
Deputy Agency Clerk

CONSENT ORDER  
ECONO RV AND BOAT STORAGE  
OF WESTCHASE, LLC  
PINELLAS COUNTY  
CT NO. 405894



**CONSENT AGENDA**

**February 23, 2021**

**Executive Director's Report: Approve Governing Board Minutes - January 26, 2021**

Staff Recommendation:

Approve Minutes as presented.

Presenter:

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



**GOVERNING BOARD MEETING GOVERNING BOARD MEETING  
TUESDAY, JANUARY 26, 2021 – 9:00 A.M.  
7601 US-301, TAMPA, FLORIDA 33637**

**MINUTES**

**Board Members Present**

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

\*Attended Via Electronic Media

**Staff Members**

Brian J. Armstrong, Executive Director  
Amanda Rice, Assistant Executive Director  
Karen E. West, General Counsel  
Brian Werthmiller, Inspector General  
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

**1. Convene Public Meeting**

**Due to the COVID-19 virus, this meeting was held through a combination of in-person attendance and 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 January 26, 2021, at the Tampa Office, 7601 U.S. Highway 301 North, Tampa, Florida 33637.

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

**1.1 Call to Order**

Chair Rice called the meeting to order. He 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 Oath of Office for Board Members**

Ms. Virginia Singer, Boards and Executive Services Manager, administered the Oath of Office to incoming Board Members Michelle Williamson and Ashley Bell Barnett.

**1.3 Invocation and Pledge of Allegiance**

Board Member Seth Weightman 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.

**1.4 Additions/Deletions to Agenda**

There were no additions or deletions to the agenda.

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

Mr. David Ballard Geddis spoke regarding constitutional concerns.

**2. Consent Agenda**

**2.1 Calendar Year 2021 Office of Inspector General Audit Plan**

Staff recommended the Board approve the Calendar Year 2021 Office of Inspector General Audit Plan.

**2.2 Initiation and Approval of Rulemaking to Amend Rule 40D-8.624, Florida Administrative Code, to Adopt Revised High Minimum Lake Levels for Lakes Allen, Harvey, and Virginia in Hillsborough County (P256)**

Staff recommended the Board:

- A. Accept the report entitled, "Reevaluation of Lakes Allen, Harvey and Virginia High 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. Authorize the initiation of rulemaking and approve the proposed rule language to amend Rule 40D-8.624, F.A.C., to replace the previously approved High Minimum Lake Levels with the proposed High Minimum Lake Levels for Lakes Allen, Harvey, and Virginia in Hillsborough County, as shown in the Exhibit.

**2.3 Pasco County Port Richey Alternative Outfall Project (N901) - Approve Reducing the Project Scope and Budget to Eliminate the Third-Party Review**

Staff recommended the Board authorize staff to amend the project Cooperative Funding Agreement to eliminate the third-party review and reduce the total project budget to \$400,000 (District Share of \$200,000).

**2.4 WUP No. 20020901.000 / Gibson Place Utility / Gibson Place Utility Company, LLC (Sumter County)**

Staff recommended the Board approve the proposed permit attached as an exhibit.

**2.5 Governing Board Concurrence - SWFWMD Emergency Order - Emergency Measures Made Necessary by COVID-19**

Staff recommended the Board approve the Sixth Amended and Restated Emergency Order No. SWF 20-054 and concur with the Executive Director's determinations regarding the state of emergency and the actions necessary to meet the emergency.

**2.6 Governing Board Concurrence - Authorization to Initiate Litigation Under Board Policy160-1**

Staff recommended the Board provide concurrence with the authorization of the Executive Director, the Governing Board Chair, and the General Counsel to initiate litigation against Cardno, Inc. on December 30, 2020, in accordance with Board Policy 160-1.

**2.7 Interagency Agreement between SFWMD and SWFWMD - Designation of Regulatory Responsibility - Environmental Resource Permit - SR 31 and CR 74 Roundabout - Charlotte County**

Staff recommended the Board approve the Interagency Agreement designating regulatory responsibility for the SR 31 at CR 74 roundabout in Charlotte County to the Southwest Florida Water Management District.

**2.8 Authorization to Issue Administrative Complaint and Order - Unauthorized Construction - Rahuge, LLC - CT No. 405388 - Charlotte County**

Staff recommended the Board:

1. Authorize District staff to issue an Administrative Complaint and Order to obtain compliance with District rules.
2. Authorize District staff to pursue additional enforcement measures to obtain compliance with the terms and conditions of the Administrative Complaint and Order, including filing any appropriate actions in circuit court, if necessary.
3. Authorize District staff to initiate an action in circuit court to recover a civil penalty/administrative fine, enforcement costs, litigation costs, and attorneys' fees, if appropriate.

**2.9 Approval of Consent Order Between SWFWMD and Charlotte County Industrial Development Authority - Permit Condition Violations - Water Use Permit No. 20020572.001 - CT No. 403151 - Charlotte County**

Staff recommended the Board:

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

**2.10 Approval of Consent Order Between SWFWMD, Shadow Woods Lots, LLC, and Sweetwater Estates Homeowners' Association, Inc. - Permit Condition Violations - Environmental Resource Permit No. 43042094.001 - CT No. 406746 - Hillsborough County**

Staff recommended the Board:

1. Approve the Consent Order
2. Authorize the 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.

**2.11 Approve Governing Board Minutes - December 15, 2020**

Staff recommended the Board approve the minutes.

**A Motion was made and seconded to approve the Consent Agenda. (00:14:38). The motion passed unanimously.**

**3. Finance/Outreach & Planning Committee**

Committee Chair James Murphy called the Committee to order. (Audio - 00:16:15)

**3.1 Consent Item(s) Moved to Discussion - None**

**3.2 Investment Strategy Quarterly Update**

Mr. John Grady, Public Trust Advisors, provided a presentation that outlined the District's economic update/investment strategy review and the quarterly investment report for the period ending December 31, 2020.

Staff recommended the Board accept and place on file the District's Quarterly Investment Reports for the quarter ended December 31, 2020.

**A motion was made and seconded to approve staff's recommendation. The motion passed unanimously.** (Audio: 00:32:13)

**3.3 2021 Consolidated Annual Report**

Ms. Trisha Neasman, Planning Lead, provided an overview and status update regarding the 2021 Consolidated Annual Report (CAR). She highlighted the ten reports that are compiled in the CAR. Ms. Neasman outlined updates to the 2021-2025 Strategic Plan. She provided a timeline associated with finalizing the CAR.

This item was presented for information, and no action was required.

**3.4 Advisory Committee Outreach**

Mr. Michael Molligan, Employee and External Relations Division Director, provided a presentation outlining outreach that was provided to the District advisory committees. These committees included the Agricultural and Green Industry, Environmental, Industrial, and the Public Supply. Mr. Molligan provided an overview of the revisions to the Governing Board advisory committee policies. He outlined the outreach provided which included the results of a survey which was completed by advisory committee members. Mr. Molligan addressed the utilization of remote meetings due to COVID. He outlined steps that are being taken to encourage members engagement in their committees.

This item was presented for information, and no action was required.

**3.5 Budget Transfer Report**

This item was presented for information, and no action was required.

**3.6 Office of Inspector General Quarterly Update – October 1, 2020 to December 31, 2020**

This item was presented for information, no action was required.

**4. Resource Management Committee**

Committee Chair Seth Weightman called the Committee to order. (Audio - 01:00:25)

**4.1 Consent Item(s) Moved to Discussion - None**

**4.2 Five-Year Water Resource Development Work Program**

This item was presented for information, and no action was required.

**5. Operations, Lands and Resource Monitoring Committee**

Committee Chair Jack Bispham called the Committee to order. (01:02:03)

**5.1 Consent Item(s) Moved to Discussion – None**

**6. Regulation Committee**

Vice Chair Joel Schleicher called the Committee to order. (Audio - 01:02:38)

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

**6.2 404 Assumption Update**

Ms. Michelle Hopkins, Regulation Division Director, provided an update regarding the State 404 Program Assumption. This presentation provided a history of the program, the benefits of using the assumption program, how it works, and the impact to the District.

Ms. Hopkins explained that assumed waters will be permitted by the Florida Department of Environmental Protection and retained waters will be permitted by the Army Corp of Engineers.

Ms. Hopkins responded to questions from Board Members.

This item was presented for information, and no action was required.

**6.3 Denials Referred to the Governing Board**

No denials were presented.

**7. General Counsel's Report**

**7.1 Consent Item(s) Moved to Discussion - None**

**7.2 Office of General Counsel Annual Update**

Mr. Chris Tumminia, Deputy General Counsel, provided a presentation that outlined an overview of in-house support provided to the District by the Office of General Counsel (OGC). He outlined enforcement metrics and data from 2018 through current. Mr. Tumminia reviewed the various enforcement processes which include informal resolutions, consent orders, administrative orders, and litigation processes.

This item was presented for information, and no action was required.

**8. Committee/Liaison Reports**

**8.1 Agricultural and Green Industry Advisory Committee**

Board Member Jack Bispham provided a summary of the December 1, 2020 meeting. A written summary was also provided.

**9. Executive Director's Report**

**9.1 Executive Director's Report**

Mr. Brian Armstrong, Executive Director, congratulated Governor DeSantis, and the Florida Department of Environmental Protection for obtaining the 404 Assumption. He informed the Board that Florida is only the third state to obtain it.

Mr. Armstrong informed the Board of the passing of previous Board Member John Henslick who served from 2015 through 2019. He also informed the Board of the passing of beloved staff member Della Haberle.

**10. Chair's Report**

**10.1 Chair's Report**

Chair Rice welcomed new Board Member Ashley Bell Barnett and welcomed back reappointed Board Member Michelle Williamson.

Chair Rice stated the next Board meeting will be held in the Brooksville Office on February 23 at 9:00 a.m.

Chair Rice stated the February Regional Cooperative Funding meetings will be held remotely via Zoom as follows: February 3, Northern Region; February 4, Southern Region, February 10, Heartland Region and February 11, Tampa Region.

**10.2 Employee Milestones**

Chair Rice recognized staff who have reached at least 20 years of service with the District and thanked them for their service. The following staff were recognized: Monte Ritter and Cynthia Taylor.

**Adjournment**

Chair Rice adjourned the meeting at 10:42 a.m.

### **3. Finance/Outreach & Planning**



# Governing Board Meeting

## February 23, 2021

### 3. FINANCE/OUTREACH & PLANNING COMMITTEE

3.1	<b>Discussion:</b> Information Only: Consent Item(s) Moved to Discussion .....	101
3.2	<b>Discussion:</b> Information Only: 2021 Legislative Update.....	102
3.3	<b>Submit &amp; File:</b> Information Only: Budget Transfer Report.....	103

**FINANCE/OUTREACH & PLANNING COMMITTEE**

**February 23, 2021**

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

Presenter:

Michael Molligan, Division Director, Employee and External Relations

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

**February 23, 2021**

### **Discussion: Information Only: 2021 Legislative Update**

#### *Purpose*

Provide a preview of the upcoming legislative session.

#### *Discussion*

The 2021 Legislative Session begins March 2 and is scheduled to conclude April 30. Legislators continue to file bills prior to the start of the regular Session.

Governor Ron DeSantis has announced his Florida Leads budget totaling \$96.6 billion. The environment remains a key focus of the budget with investments totaling \$43.3 billion.

Included in the proposed budget are the following amounts for the environment:

- \$50 million for Springs Restoration
- \$50 million for Florida Forever Funding
- \$40 million for Alternative Water Supply Funding

Staff will be tracking the confirmations of Governing Board members and other environmental bills. To date, the following significant bills have been filed:

- SB 952/HB 169 – Purchase of Commodities and Services by Water Management Districts
- SB 64/HB 263 – Reclaimed Water
- SB 62 – Regional Planning Councils

Government and Community Affairs staff will again provide weekly updates of pending legislation and related budget issues as they progress.

#### **Staff Recommendation:**

This item is submitted for the Board's information, no action is required.

#### **Presenter:**

Cara Martin, Office Chief, Government and Community Affairs

**FINANCE/OUTREACH & PLANNING COMMITTEE**

**February 23, 2021**

**Submit & File: Information Only: Budget Transfer Report**

*Purpose*

Provide the Budget Transfer Report covering all budget transfers made during the month of January 2021.

*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 January 2021.

Staff Recommendation:

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

Presenter:

Melisa J. Lowe, Bureau Chief, Finance

**SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT**  
**Budget Transfer Report**  
**January 2021**

--- 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	General Services Fuels and Lubricants	General Services Taxes	Transfer of funds originally budgeted for District Fleet fuels and lubricants. Expenditures are anticipated to be less than budgeted due to continued low fuel prices. The funds are needed to reimburse the Lessor for property taxes paid in association with an excavator leased by the District.	3,172.79
<b>Total Change from Original Budget Intent</b>				<b>\$ 3,172.79</b>
<b><u>Consistent with Original Budget Intent</u></b>				
1	Operations & Land Management Information Technology Salaries & Benefits Operating Expenses Contracted Services for Operations Contracted Services for Projects Equipment - Capital Fixed Capital Outlay	Land Resources Information Technology Salaries & Benefits Operating Expenses Contracted Services for Operations Contracted Services for Projects Equipment - Capital Fixed Capital Outlay	Funds are needed for the original purposes budgeted for the operations of the Land Management, Land Use and Protection, and Real Estate Services sections. The funds are being transferred to new accounting codes to establish a new bureau as a strategic change in the District organization. The Operations and Land Management Bureau has been divided into two bureaus, the Operations Bureau and the Land Resources Bureau.	20,964,232.67
2	Land Resources Other Contractual Services	Land Resources Other Contractual Services	Funds are needed for the original purposes budgeted for the Rainbow Springs Ground Cover Restoration project funded with District ad valorem, and outsourced prescribed fire services reimburseable by the Land Acquisition Trust Fund (LATF). The District has been awarded \$21,000 by the Florida Department of Agriculture and Consumer Services from the Prescribed Fire Enhancement Program for outsourced prescribed fire services; therefore, releasing funds from the LATF to be reallocated to the Rainbow Springs Ground Cover Restoration project.	42,000.00
<b>Total Consistent with Original Budget Intent</b>				<b>\$ 21,006,232.67</b>
<b>Total Transfers for Governing Board Ratification</b>				<b>\$ 21,009,405.46</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.



**Governing Board Meeting**  
**February 23, 2021**

**4. RESOURCE MANAGEMENT COMMITTEE**

4.1	<b>Discussion:</b> Information Only: Consent Item(s) Moved to Discussion.....	105
4.2	<b>Discussion:</b> Information Only: Northern Tampa Bay Recovery Update .....	106

**RESOURCE MANAGEMENT COMMITTEE**

**February 23, 2021**

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

Presenter:

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



## RESOURCE MANAGEMENT COMMITTEE

February 23, 2021

### Discussion: Information Only: Northern Tampa Bay Recovery Update

#### *Purpose*

To provide the Governing Board an update on the status of the Northern Tampa Bay (NTB) Recovery Assessment. This is an informational item only.

#### *Background/History*

Tampa Bay Water (TBW) and its member governments entered into an agreement with the District in 1998 (referred to as the Partnership Agreement) to significantly reduce groundwater withdrawals from its regional wellfields and work toward recovery in areas where water resources had been impacted by groundwater withdrawals. As part of the Partnership Agreement, the District combined all the permits for TBW's central system wellfields into one permit (Water Use Permit No. 20011771.000), known as the "consolidated permit."

The original consolidated permit was issued for 158 million gallons per day (mgd) with planned reductions to 121 mgd by 2003 and 90 mgd by 2008. Reductions were achieved through the development of alternative water supplies, such as the C.W. Bill Young Reservoir and the desalination plant. In 2010, the District's Governing Board adopted the second phase of the recovery strategy. The District's goal was to continue evaluating the amount of environmental recovery achieved over the next 10 years while withdrawals remain at or below 90 mgd.

District staff conducted a hydrologic assessment of the Northern Tampa Bay wellfield recovery in August and September of 2020. The assessment indicated that a clear recovery of hydrologic and environmental conditions had occurred due to the significant reduction in groundwater withdrawals, improved rainfall conditions, and implementation of a robust wellfield operations strategy by TBW that prioritized environmental preservation. District staff concluded all MFL lakes and all but one MFL wetland (located on the Morris Bridge wellfield) were meeting their levels, the ecological health of lakes and wetlands had significantly improved, and aquifer water levels were near their highest elevations in 40 to 60 years. Based on this information, District staff anticipate requesting Governing Board approval at the March 23, 2021 meeting to initiate rulemaking to repeal the recovery strategy and remove all references to the strategy in District rules.

#### Staff Recommendation:

This item is presented for informational purposes only.

#### Presenters:

Warren Hogg, P.G., Tampa Bay Water

Ron Basso, P.G., Chief Hydrogeologist, Water Resources Bureau



**Governing Board Meeting**  
**February 23, 2021**

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

5.1	<b>Discussion:</b> Information Only: Consent Item(s) Moved to Discussion.....	107
5.2	<b>Discussion:</b> Information Only: Hydrologic Conditions Report.....	108

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

**February 23, 2021**

**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**  
**February 23, 2021**

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

See attached report.

**Staff Recommendation:**

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

**Presenter:**

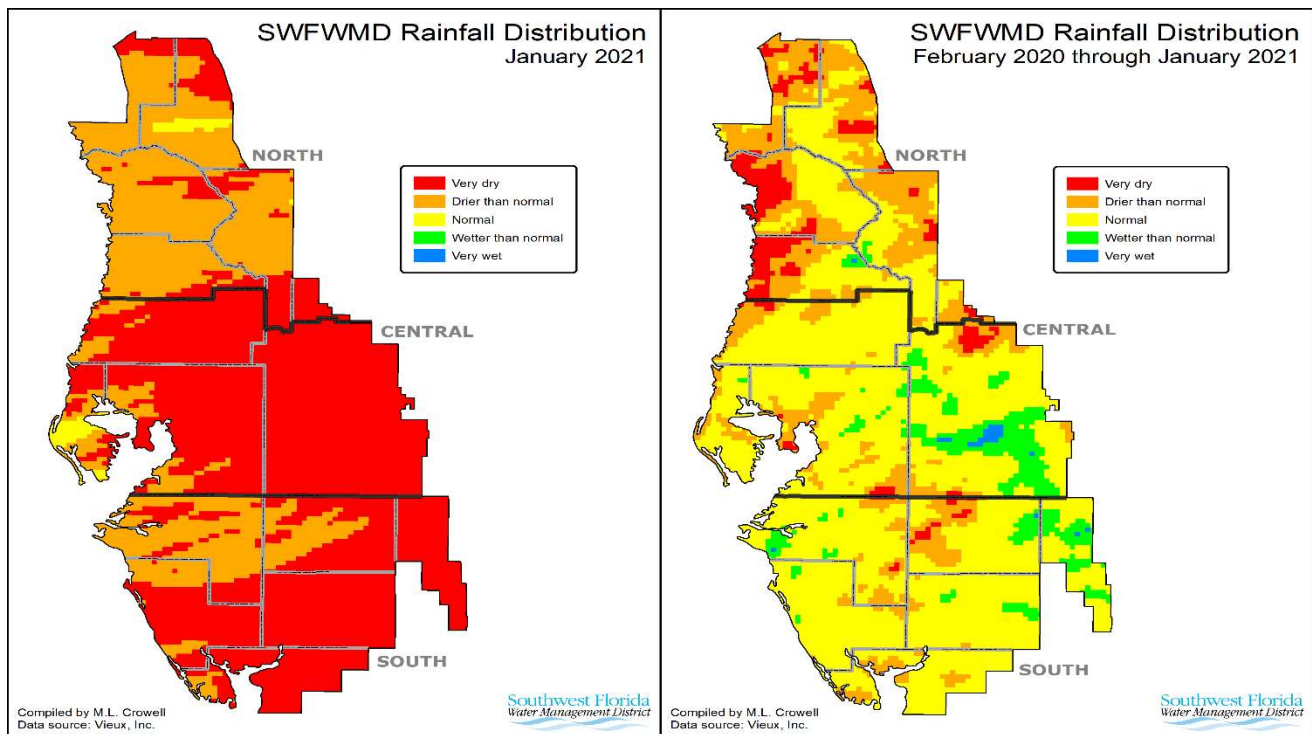
Asmita Shukla, Lead Hydrologic Data Analyst

# Hydrologic Conditions Report

## SUMMARY OF CONDITIONS

- January is the fourth month of the eight-month dry season (October - May). Rainfall was low and associated with cold front systems moving across the District. January saw cooler, dry air and less than expected rainfall amounts.
- Rainfall:** Provisional rainfall totals were significantly below-normal in all three regions of the District. The District-wide 12-month cumulative rainfall totals declined, ending the month at a deficit of about 2.63 inches below the long-term historical average. The rainfall deficit is greatest in the northern counties at 5.84 inches below the mean.
- Streamflow:** Monthly streamflow data indicates flow decreased at all 12 streamflow monitoring stations, compared to last month. All 12 stations ended the month within the “normal” range. Regional streamflow, based on three index rivers, was within the “normal” range in all regions of the District.
- Groundwater:** Monthly aquifer level data indicates that regional levels saw declines in all three regions of the District, compared to last month. The northern and central counties ended the month within the “normal” range, while the southern counties ended the month at “above-normal” levels.
- Lake Levels:** Regional lake levels decreased in all four lake regions of the District, compared to December data. The northern region ended the month below the annual normal range, while the Tampa Bay, Polk Uplands and Lake Wales Ridge regions ended the month within normal levels.
- Overall:** Hydrologic indicators saw declines in January. NOAA forecasts predict below-normal rainfall through May 2021. Extended drier-than-normal rainfall in the winter/spring would worsen overall hydrologic conditions.

## RAINFALL



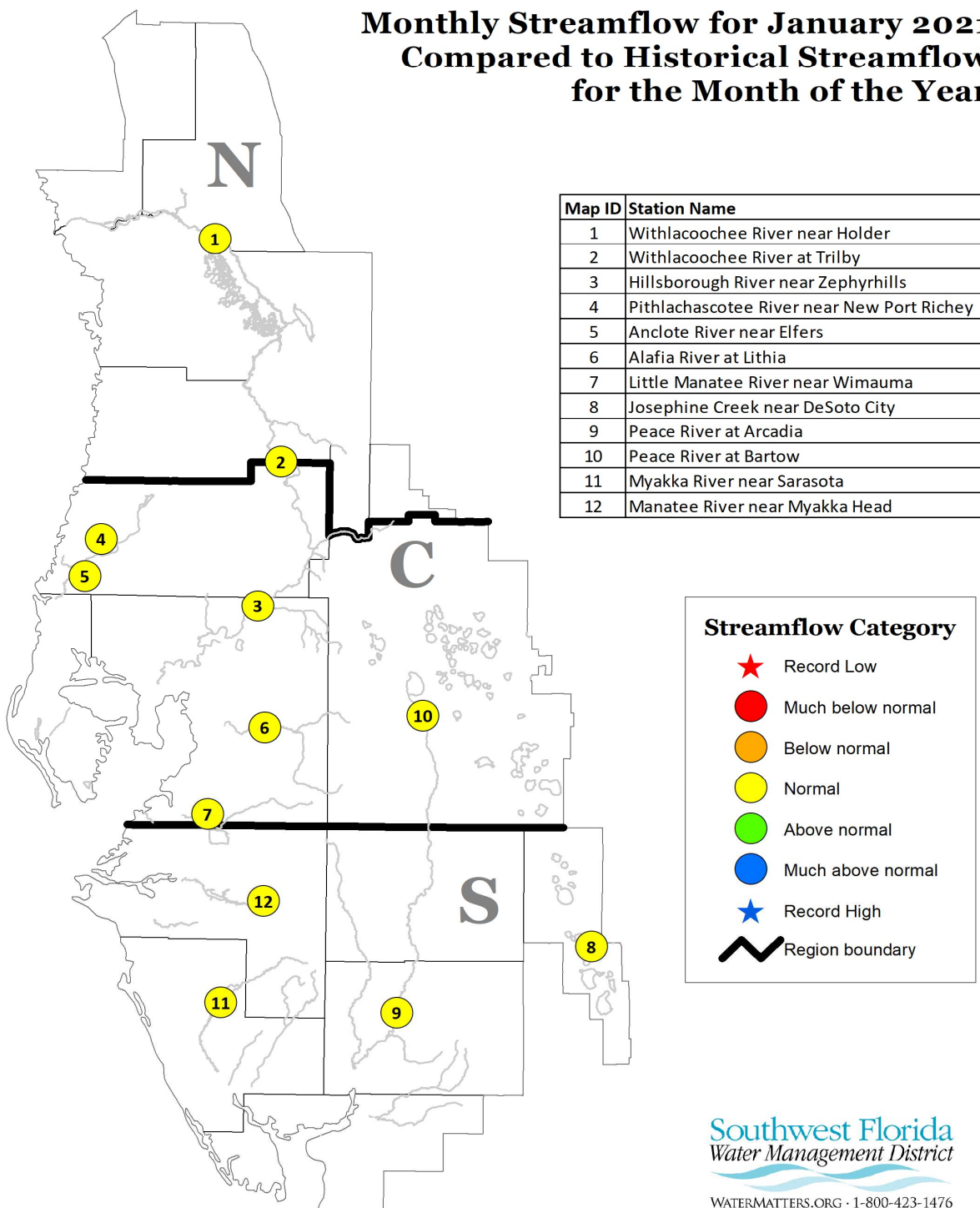
## RELATIONSHIP OF PROVISIONAL JANUARY 2021 RAINFALL TO HISTORICAL RAINFALL AVERAGE

Regional Summary (in inches):

Region	JAN 2021 Average Rainfall	Historical Average For JAN	Departure From Historical Average	Cumulative 12-month Rainfall FEB 2020 – JAN 2021	Historical 12-month Cumulative Rainfall	Departure From Historical 12-month Cumulative
Northern Counties	0.84	2.82	-1.98	47.72	53.56	-5.84
Central Counties	0.46	2.51	-2.05	51.32	52.63	-1.31
Southern Counties	0.38	2.16	-1.78	51.22	52.48	-1.26
District All Counties	0.54	2.49	-1.95	50.29	52.92	-2.63

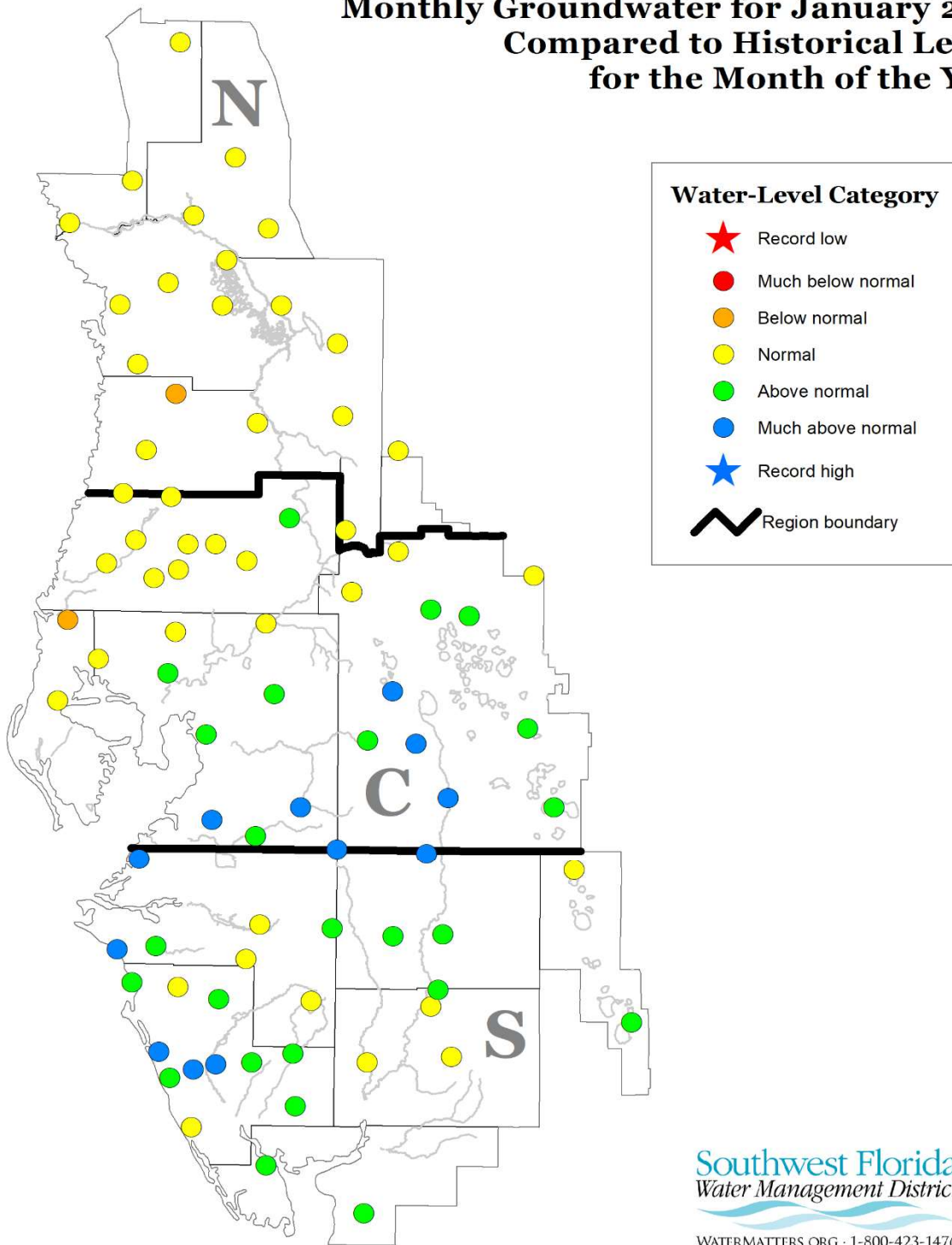
# STREAMFLOW

## Monthly Streamflow for January 2021 Compared to Historical Streamflow for the Month of the Year



# GROUNDWATER

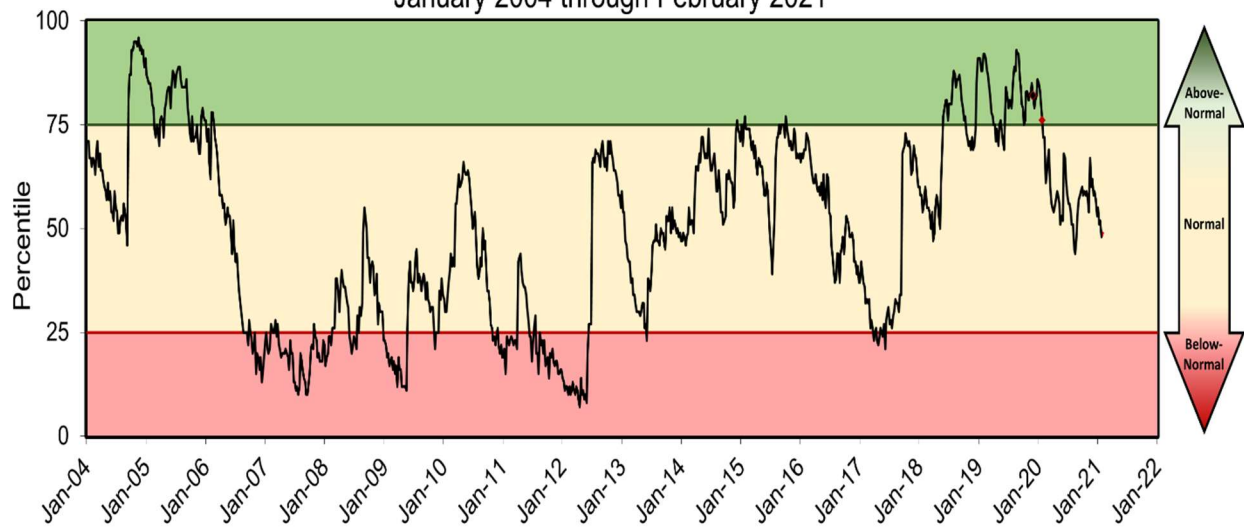
## Monthly Groundwater for January 2021 Compared to Historical Levels for the Month of the Year



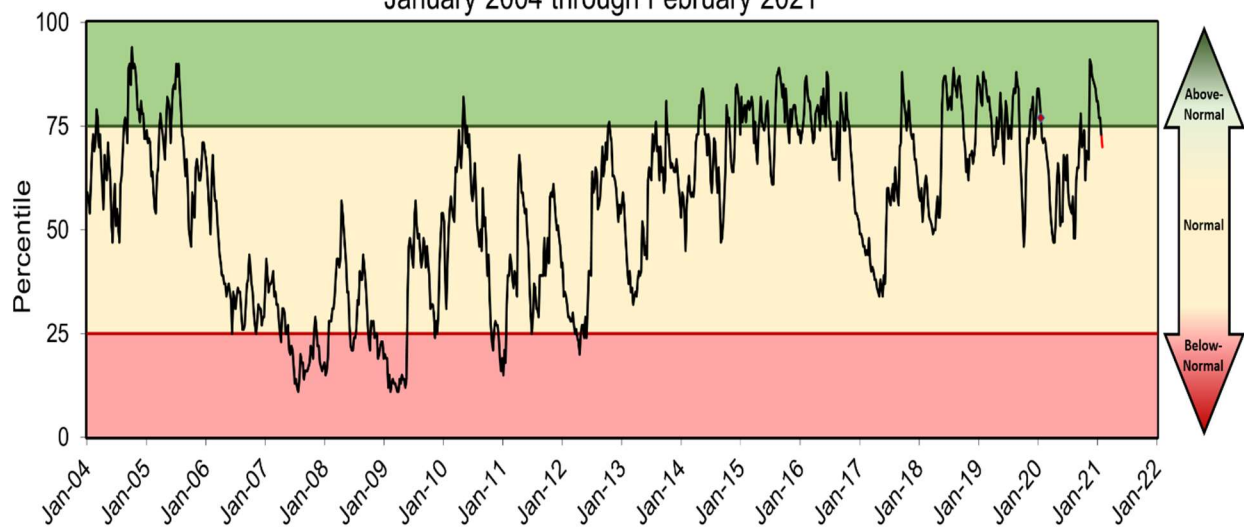


## GROUNDWATER (Continued)

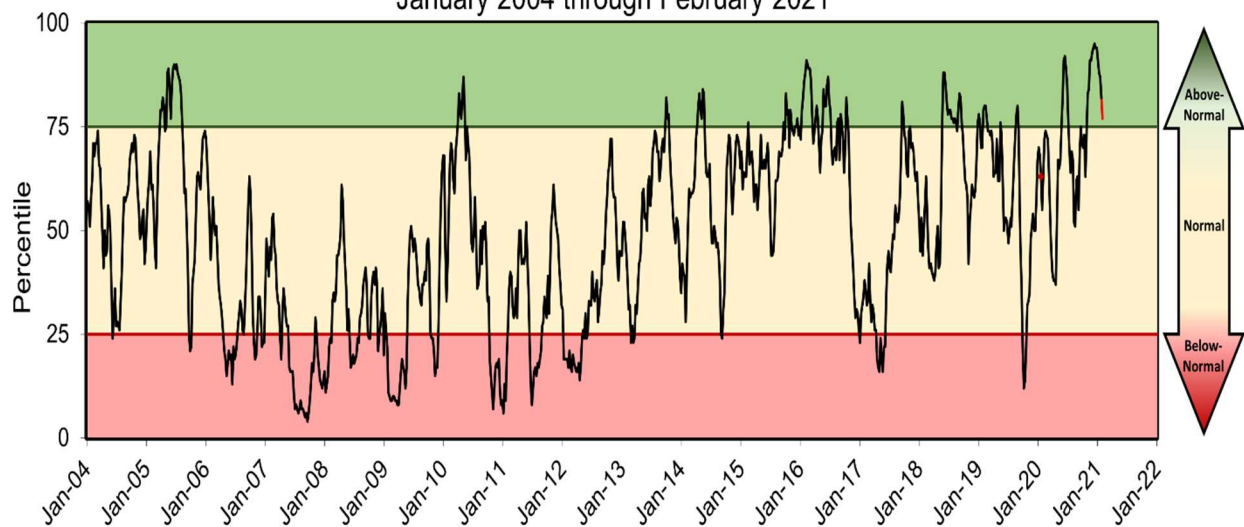
Groundwater Levels: Northern Counties  
January 2004 through February 2021



Groundwater Levels: Central Counties  
January 2004 through February 2021

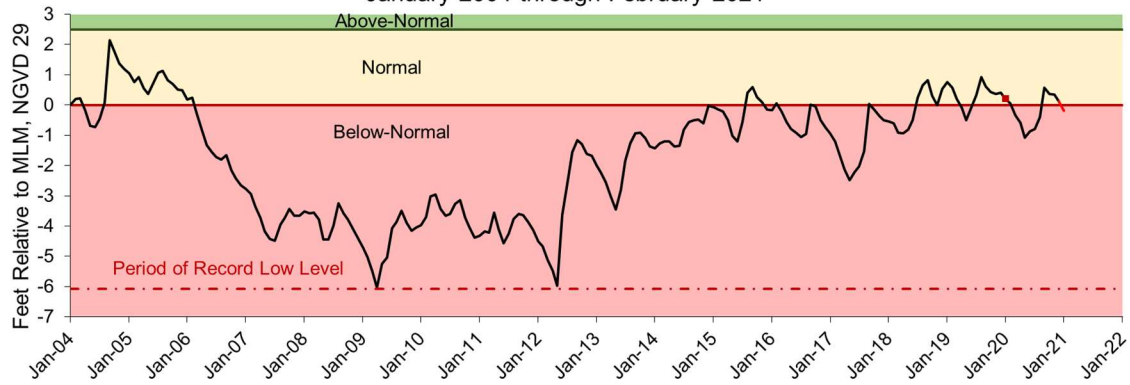


Groundwater Levels: Southern Counties  
January 2004 through February 2021

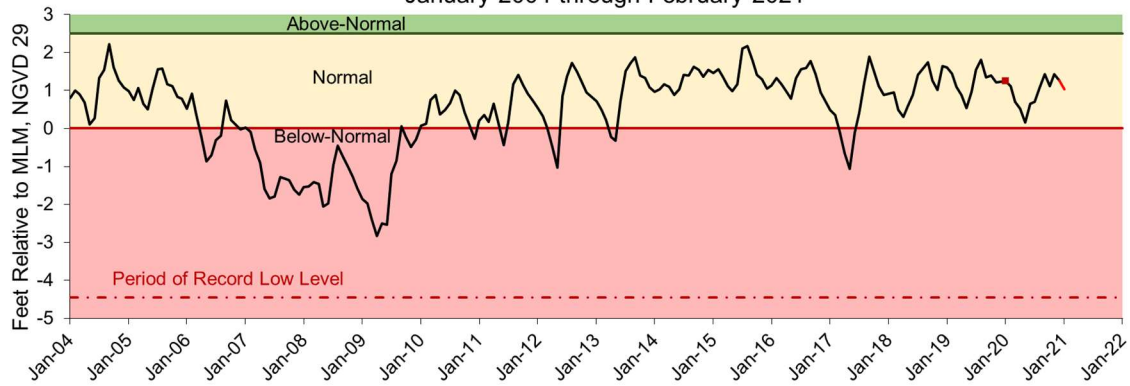


# LAKES

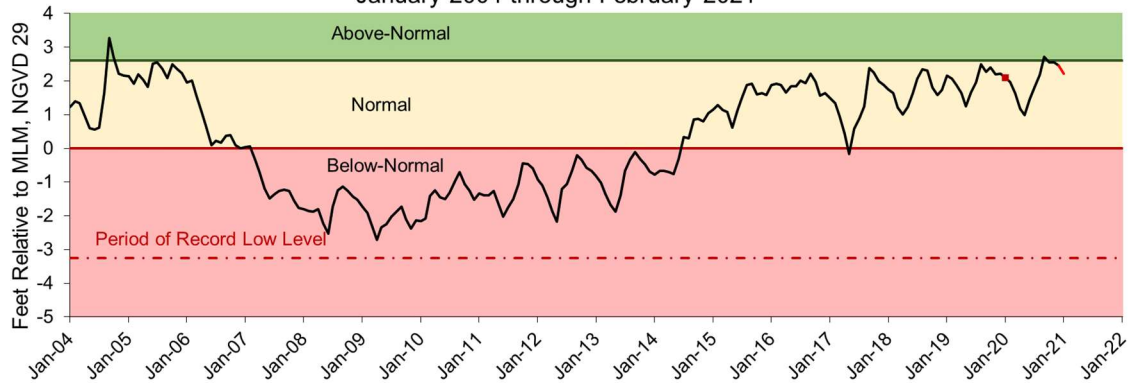
Surface Water Levels: Northern Lakes  
January 2004 through February 2021



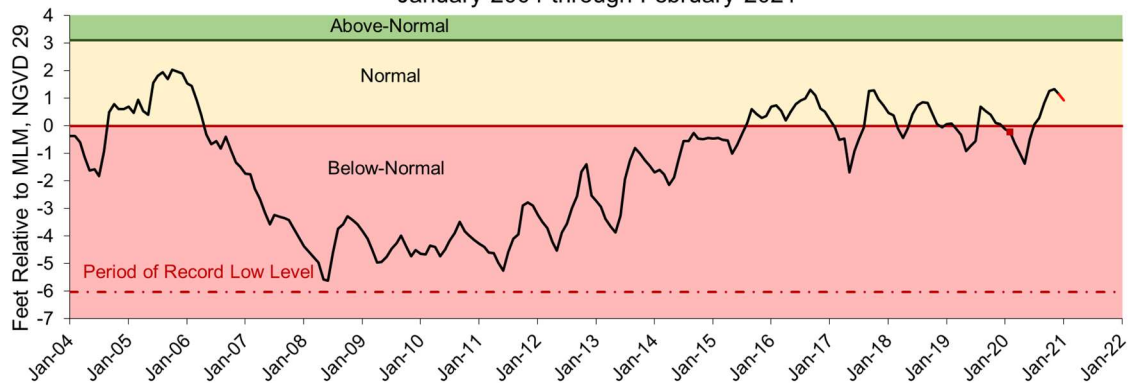
Surface Water Levels: Tampa Bay  
January 2004 through February 2021



Surface Water Levels: Polk Uplands  
January 2004 through February 2021

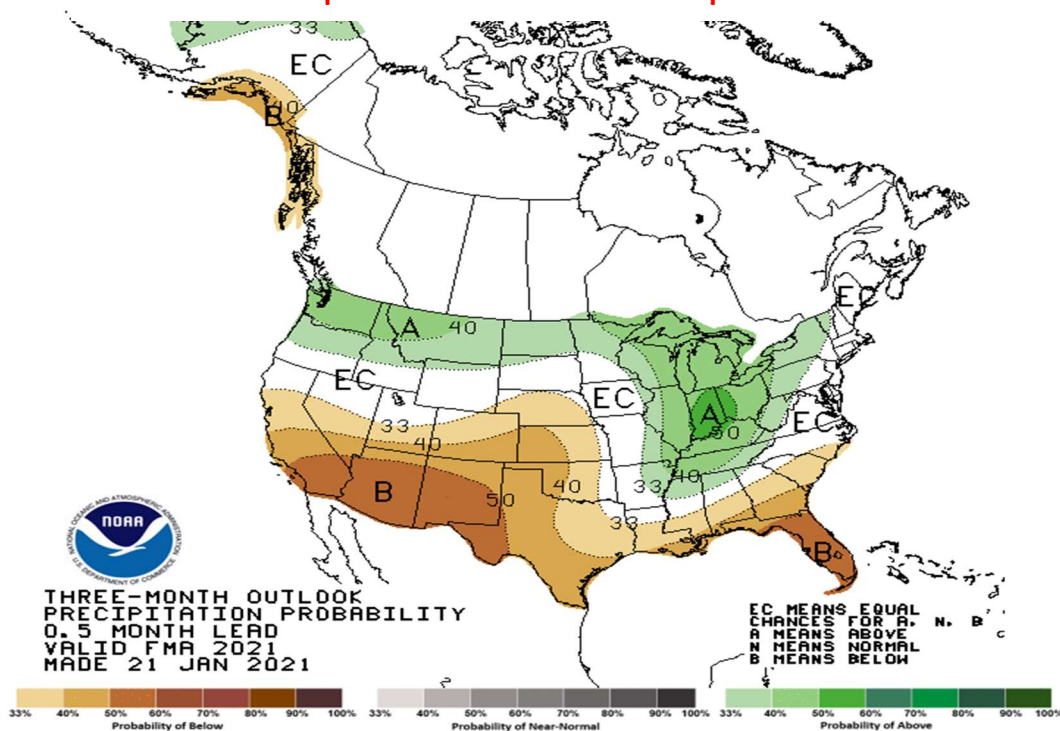


Surface Water Levels: Lake Wales Ridge Lakes  
January 2004 through February 2021

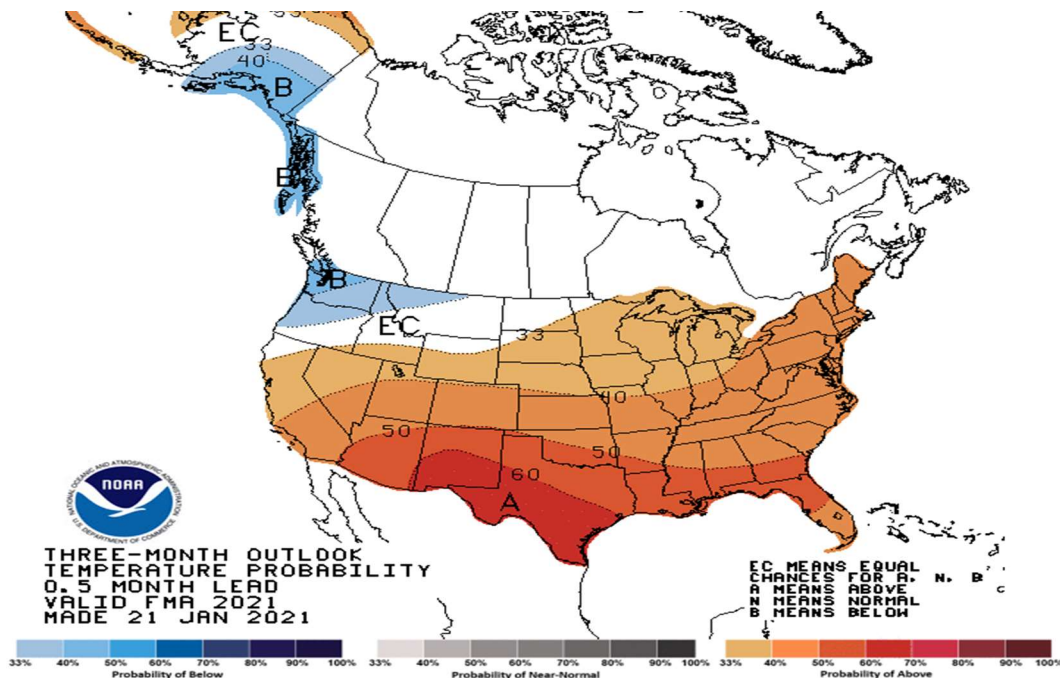


# NOAA THREE-MONTH WEATHER FORECAST

## Precipitation: Feb-Mar-Apr 2021



## Temperatures: Feb-Mar-Apr 2021



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

**February through April:** The three-month forecast, as of January 21, 2021, predicts below-normal rainfall throughout the District during the composite three-month period of February through April 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/>.



# Governing Board Meeting

## February 23, 2021

### 6. REGULATION COMMITTEE

6.1	<b>Discussion:</b> Information Only: Consent Item(s) Moved to Discussion.....	115
6.2	<b>Discussion:</b> Information Only: 404 Assumption Update .....	116
6.3	<b>Discussion:</b> Action Item: Denials Referred to the Governing Board.....	117

**REGULATION COMMITTEE**

**February 23, 2021**

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

Presenter:

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

## REGULATION COMMITTEE

February 23, 2021

### Discussion: Information Only: 404 Assumption Update

#### *Purpose*

To provide the Governing Board an update on the District's coordination with the Florida Department of Environmental Protection (DEP) on the State's assumption of the 404 program. This is an informational item only.

#### *Background/History*

On December 17, 2020, the U.S. Environmental Protection Agency (EPA) approved Florida's assumption of the Section 404 program of the Clean Water Act (404 program), which is the federal permitting program to regulate the discharge of dredged or filled material into wetlands and other waters of the United States. The state 404 program was subsequently implemented on December 22, 2020. An informational presentation on Florida's assumption of the 404 program was given by staff at the January 26, 2021 Governing Board meeting. The state 404 program will initially be administered by the DEP for the first year, with each respective water management district (WMD) continuing to handle the related ERP applications that fall under WMD responsibility. The executed 404 assumption agreement between the EPA and the DEP outlined coordination requirements between the DEP and WMDs on administration of 404 and Environmental Resource Permits. This presentation provides updates and clarification regarding coordination on the State's 404 program.

#### Staff Recommendation:

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

#### Presenters:

Cliff Ondercin, P.W.S., Environmental Manager, Environmental Resource Permit Bureau  
David Kramer, Bureau Chief, Environmental Resource Permit Bureau

## **REGULATION COMMITTEE**

**February 23, 2021**

**Discussion: Action Item: 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**  
**February 23, 2021**

**7. GENERAL COUNSEL’S REPORT**

7.1 **Discussion:** Information Only: Consent Item(s) Moved to Discussion.....118

**GENERAL COUNSEL'S REPORT**

**February 23, 2021**

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

Presenter:

Karen West, General Counsel

**8. Committee/Liaison  
Reports**

**COMMITTEE/LIAISON REPORTS**

**February 23, 2021**

**Discussion: Information Only: Environmental Advisory Committee**

Presenter:

John Mitten, Board Member



**EXECUTIVE DIRECTOR'S REPORT**

**February 23, 2021**

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

Presenter:

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





**CHAIR'S REPORT**

**February 23, 2021**

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

Presenter:

Kelly S. Rice, Chair

**CHAIR'S REPORT**

**February 23, 2021**

**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
5	02/08/2016	Donna Campbell	Staff Environmental Scientist	Brooksville	Water Resources	2021	02/08/2021
15	02/06/2006	Danielle Rogers	Environmental Project Manager	Brooksville	Natural Systems & Restoration	2021	02/06/2021
25	02/05/1996	Michael Molligan	Employee & External Relations Director	Brooksville	Office of Executive	2021	02/05/2021
35	02/17/1986	John Chapman	Senior Vegetation Management Specialist	Brooksville	Operations	2021	02/17/2021