

# Governing Board Meeting

## *Agenda and Meeting Information*

*June 23, 2020*

*9:00 AM*

*Brooksville Office*

2379 Broad Street • Brooksville, Florida  
(352) 796-7211

Southwest Florida  
Water Management District

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# Southwest Florida Water Management District

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

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## Final Agenda GOVERNING BOARD MEETING JUNE 23, 2020 9:00 AM

### Brooksville Office

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

*All meetings are open to the public.*

- Viewing of the Board meeting will be available through the District's website at [www.WaterMatters.org](http://www.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 on the District's web site: [www.WaterMatters.org](http://www.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

**9:00 A.M. CONVENE PUBLIC HEARING AND MEETING (TAB A)**

1. *Call to Order*
2. *Invocation and Pledge of Allegiance*
3. *Additions/Deletions to Agenda*
4. *Public Input for Issues Not Listed on the Published Agenda*

**CONSENT AGENDA (TAB B)*****Finance/Outreach & Planning Committee***

5. Resolution No. 20-07, Commending Randall S. Maggard for His Service as a Member of the Southwest Florida Water Management District Governing Board
6. Independent Auditing Services Contract
7. Governing Board Travel - Annual Environmental Permitting Summer School
8. Knowledge Management - Comprehensive Fraud Governing Board Policy
9. Budget Transfer Report

***Resource Management Committee***

10. FARMS – Bermont Properties, LLC – Section 34 (H784), Charlotte County
11. Central Florida Water Initiative Water Conservation Cost Share Program
12. Initiation and Approval of Rulemaking to Amend Rule 40D-8.623, Florida Administrative Code, to Remove Minimum Wetland Level for Cross Bar Q-25 (Stop #7) in Pasco County

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

13. Knowledge Management: Sale, Exchange or Conveyance of Interests in Land by the District
14. Non-Exclusive Utility Easement to Tampa Electric Company (TECO) on the Brooker Creek Headwaters Nature Preserve for the Zambito Property – SWF Parcel No. 14-074-160X
15. Non-Exclusive Perpetual Easement for Lake Arietta Access – SWF Parcel No. 10-201-115P

***Regulation Committee***

16. Individual Water Use Permits Referred to the Governing Board
  - a. WUP No. 20012159.002 / AgrotechHemp / AgrotechHemp Corporation (Marion County)

***General Counsel's Report***

17. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval
  - a. Approval of Consent Order Between SWFWMD and Farrell Homes, Inc. and Van Buren Land Holdings, Inc. – Violation of Permit Conditions for Construction – ERP No. 44033097.000 (EXPIRED) – CT No. 384019 – Pinellas County
  - b. Approval of Consent Order Between SWFWMD and Emerson Gibbs – Unauthorized Construction – CT No. 403478 – Charlotte County
  - c. Approval of Consent Order Between SWFWMD and Etcetera, Etc., Inc. – Operation Without a Permit – ERP No. 404221.01 – CT No. 380718 – DeSoto County
  - d. Authorization to Issue Administrative Complaint and Order – Well Construction Violations – Carl Douglas, Jr. – License Number 9127 – CT No. 409162 – Highlands, Polk, and Hardee Counties
  - e. Authorization to Issue Administrative Complaint and Order – Unauthorized Construction – Abdelijalil and Cindy Lou Bakkach – CT No. 380586 – Polk County
  - f. Approval of Declaration of Restrictive Covenant – Tampa Bypass Canal Land Fill Site – SWF Parcel Nos. 114 (13-001), 125 (13-001), and 126 (13-001) – Hillsborough County
  - g. Governing Board Concurrence – Emergency Order No. SWF 20-023 – Emergency Measures Made Necessary by COVID-19
18. Rulemaking - None

***Executive Director's Report***

19. Approve Governing Board Minutes – May 19, 2020

**FINANCE/OUTREACH & PLANNING COMMITTEE (TAB C)*****Discussion***

20. Consent Item(s) Moved for Discussion
21. Knowledge Management: Governing Board Committee Responsibilities and 110-1 Policies and Procedures Governing Board Policies

22. Fiscal Year 2021 Recommended Annual Service Budget

23. District Boat Replacement

***Submit & File Reports - None***

***Routine Reports***

24. Treasurer's Report and Payment Register

25. Monthly Financial Statement

26. Monthly Cash Balances by Fiscal Year

27. Comprehensive Plan Amendment and Related Reviews Report

**RESOURCE MANAGEMENT COMMITTEE (TAB D)**

***Discussion***

28. Consent Item(s) Moved for Discussion

29. Draft Charlotte Harbor Surface Water Improvement and Management (SWIM) Plan (W501)

***Submit & File Reports - None***

***Routine Reports***

30. Minimum Flows and Levels and Reservations Status Report

31. Significant Water Resource and Development Projects

**OPERATIONS, LANDS AND RESOURCE MONITORING COMMITTEE (TAB E)**

***Discussion***

32. Consent Item(s) Moved for Discussion

33. 2020 Hurricane Preparedness

34. Hydrologic Conditions Report

***Submit & File Reports - None***

***Routine Reports***

35. Significant Activities

36. Structure Operations

37. Surplus Lands Update

**REGULATION COMMITTEE (TAB F)**

***Discussion***

38. Consent Item(s) Moved for Discussion

39. Consider Water Shortage Order(s) as Necessary

40. Denials Referred to the Governing Board

***Submit & File Reports - None***

***Routine Reports***

41. Individual Permits Issued by District Staff

42. Overpumpage Report

**GENERAL COUNSEL'S REPORT (TAB G)**

***Discussion***

43. Consent Item(s) Moved for Discussion

***Submit & File Reports - None***

***Routine Reports***

44. June 2020 Litigation Report

45. June 2020 Rulemaking Update

**EXECUTIVE DIRECTOR'S REPORT (TAB H)**

46. Executive Director's Report

**CHAIR'S REPORT (TAB I)**

47. Chair's Report

48. Employee Milestones



## RECESS PUBLIC HEARING

### ADJOURNMENT

The Governing Board may take action on any matter on the printed agenda including such items listed as reports, discussions, or program presentations. The Governing Board may make changes to the printed agenda only for good cause as determined by the Chair, and stated in the record.

If a party decides to appeal any decision made by the Board with respect to any matter considered at a hearing or these meetings, that party will need a record of the proceedings, and for such purpose that party may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you wish to address the Board concerning any item listed on the agenda or an issue that does not appear on the agenda, please fill out a speaker's card at the reception desk in the lobby and give it to the recording secretary. Your card will be provided to the Chair who will call on you at the appropriate time during the meeting. When addressing the Board, please step to the podium, adjust the microphone for your comfort, and state your name for the record. Comments will be limited to three minutes per speaker. In appropriate circumstances, the Chair may grant exceptions to the three-minute limit.

The Board will accept and consider written comments from any person if those comments are submitted to the District at Southwest Florida Water Management District, 2379 Broad Street, Brooksville, Florida 34604-6899. The comments should identify the number of the item on the agenda and the date of the meeting. Any written comments received after the Board meeting will be retained in the file as a public record.

# GOVERNING BOARD OFFICERS, COMMITTEES AND LIAISONS

Effective November 26, 2019

OFFICERS	
Chair	Mark Taylor
Vice Chair	Michelle Williamson
Secretary	Joel Schleicher
Treasurer	Kelly S. Rice

OPERATIONS, LANDS AND RESOURCE MONITORING COMMITTEE
James G. Murphy, Chair
Jack Bispham

RESOURCE MANAGEMENT COMMITTEE
Rebecca Smith, Chair
Roger Germann

REGULATION COMMITTEE
Joel Schleicher, Chair
Michelle Williamson

FINANCE/OUTREACH AND PLANNING COMMITTEE
Kelly S. Rice, Chair
Seth Weightman

*\* 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	Roger Germann
Industrial Advisory Committee	James G. Murphy
Public Supply Advisory Committee	Kelly S. Rice (Temporary)
Well Drillers Advisory Committee	Seth Weightman

OTHER LIAISONS	
Central Florida Water Initiative	James Murphy
Springs Coast Steering Committee	Kelly S. Rice
Charlotte Harbor National Estuary Program Policy Board	Jack Bispham
Sarasota Bay Estuary Program Policy Board	Joel Schleicher
Tampa Bay Estuary Program Policy Board	Roger Germann
Tampa Bay Regional Planning Council	Rebecca Smith

**Southwest Florida Water Management District Schedule of Meetings**  
**Fiscal Year 2020**

Updated 6/8/2020

**Governing Board Meeting**

October 22, 2019 – 9:00 a.m., Brooksville Office  
November 19, 2019 – 9:00 a.m., Tampa Office  
December 10, 2019 – 11:00 a.m., Brooksville Office  
January 28, 2020 – 9:00 a.m., Tampa Office  
February 25, 2020 – 9:00 a.m., Brooksville Office  
March 24, 2020 – 10:00 a.m., Brooksville Office (Audio Visual Communication)  
April 28, 2020 – 10:00 a.m., Brooksville Office (Audio Visual Communication)  
May 19, 2020 – 9:00 a.m., Brooksville Office (Audio Visual Communication)  
June 23, 2020 – 9:00 a.m., Brooksville Office (Audio Visual Communication)  
July 28, 2020 – 9:00 a.m., Tampa Office  
August 25, 2020 – 9:00 a.m., Brooksville Office  
September 22, 2020 – 3:00 p.m., Tampa Office

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

2020 – September 8 & 22

**Agricultural & Green Industry Advisory Committee – 10:00 a.m., Tampa Office**

2019 – December 3  
2020 – March 10 (canceled), June 9 (canceled), September 15

**Environmental Advisory Committee – 10:00 a.m., Tampa Office**

2019 – October 8  
2020 – January 14, April 14 (canceled), July 14

**Industrial Advisory Committee – 10:00 a.m., Tampa Office**

2019 – November 5  
2020 – February 11, May 12 (canceled), August 11

**Public Supply Advisory Committee – 1:00 p.m., Tampa Office**

2019 – November 5  
2020 – February 11, May 12 (canceled), August 11

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

2019 – October 9  
2020 – January 8, April 8 (canceled), July 8

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

2020 – February 5 – Northern Region, Brooksville Office  
2020 – February 6 – Southern Region, Sarasota County Commission Chamber  
2020 – February 12 – Heartland Region, Bartow City Hall  
2020 – February 13 – Tampa Bay Region, Tampa Office  
2020 – April 1 – Northern Region, Brooksville Office (Audio Visual Communication)  
2020 – April 2 – Southern Region, Brooksville Office (Audio Visual Communication)  
2020 – April 8 – Tampa Bay Region, Brooksville Office (Audio Visual Communication)  
2020 – April 9 – Heartland Region, Brooksville Office (Audio Visual Communication)

**Public Meeting for Pending Permit Applications – 9:00 a.m., Tampa Office**

2019 – October 2, November 6, December 4  
2020 – January 8, February 5, March 4, April 1 (canceled), May 6 (canceled), June 3 (canceled), July 1, August 5, September 2

**Environmental Resource Permitting Advisory Group – 10:00 a.m., and  
Water Use Permitting Advisory Group – 2:00 p.m., Tampa Office**

2019 – October 30  
2020 – April 29 (canceled), July 22

**Meeting Locations**

Brooksville Office – 2379 Broad Street, Brooksville, FL 34604  
Tampa Office – 7601 US Highway 301 North, Tampa, FL 33637  
Lake Eva Banquet Hall – 799 Johns Avenue, Haines City, FL 33844  
Bartow City Hall – 450 N. Wilson Avenue, Bartow, FL 33830  
Sarasota County Commission Chamber – 1660 Ringling Blvd. Sarasota, FL 34236  
Sarasota County Operations Center – 1001 Sarasota Center Blvd. Sarasota, FL 34240



# **Executive Summary**

## **GOVERNING BOARD MEETING**

**JUNE 23, 2020**  
**9:00 a.m.**

### **CONVENE PUBLIC MEETING (TAB A)**

1. **Call to Order**
2. **Invocation and Pledge of Allegiance**
3. **Additions/Deletions to Agenda**
4. **Public Input for Issues Not Listed on the Published Agenda**

### **CONSENT AGENDA (TAB B)**

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, the item(s) will be deleted from the Consent Agenda and moved to the appropriate Committee or Report for consideration.

#### **Finance/Outreach & Planning Committee**

5. **Resolution No. 20-07, Commending Randall S. Maggard for His Service as a Member of the Southwest Florida Water Management District Governing Board**

To honor Mr. Randall S. Maggard for his term as a Governing Board member, District staff has prepared this resolution to commemorate his service. Mr. Maggard was appointed by Governor Rick Scott in October 2011 and served until July 2019.

#### **Staff Recommendation:**

**Approve Resolution No. 20-07, Commending Randall S. Maggard for His Service as a Member of the Southwest Florida Water Management District Governing Board.**

6. **Independent Auditing Services Contract**

Exercise the renewal option within the current contract and approve the second amendment to the agreement engaging James Moore & Co., P.L.(JMCO) to perform the fiscal year 2019-20 auditing services.

On July 25, 2017, the Governing Board approved the hiring of JMCO, Certified Public Accountants, to perform the annual audit of the District's financial statements and the necessary federal and state single audits as a result of the District's bid. The contract was awarded to JMCO for one-year, with four one-year renewals in accordance with the provisions of the bid. This renewal represents the third one-year renewal.

In accordance with terms of the contract, JMCO has requested an increase in compensation of 2.3 percent which equates to an approximate increase of \$2,049 depending on how many single audits are required.

Services	FY2020	FY2019	Increase
Basic Financial Statements	\$85,928	\$83,996	\$1,932
Each Federal Single Audit	3,106	3,036	70
Each State Single Audit	2,071	2,024	47
Total	\$91,105	\$89,056	\$2,049

Actual costs for the previous audits included under this contract is as follows:

Services	FY2019	FY2018	FY2017
Basic Financial Statements	\$83,996	\$83,000	\$83,000
Federal Single Audits, FY2017 base rate \$3,000 each	0	0	0
State Single Audits, FY2017 base rate \$2,000 each	2,024	2,000	4,000
Total	\$86,020	\$85,000	\$87,000

Apart from the slight increase in fees, there are no significant changes to the contract other than the time requirements, reflecting that the audit is for the fiscal year 2019-20 financial audit.

Staff Recommendation:

- 1) Exercise the renewal option within the current contract and approve the third amendment to the agreement engaging JMCO to perform the fiscal year 2019-20 auditing services; and
- 2) Authorize the Executive Director to execute the third amendment to the current contract with JMCO to perform the fiscal year 2019-20 auditing services.

7. **Governing Board Travel - Annual Environmental Permitting Summer School**

District policy states that in accordance with Chapters 112 and 373, Florida Statutes, travel expenses may be incurred for official District business or for a public purpose beneficial to the District. Travel to any conference or convention requires prior approval.

Within the geographic boundaries of the District, Governing Board members may incur travel expenses to attend Governing Board meetings or for other purposes beneficial to the District, excluding conferences and conventions. Scheduled travel for Governing Board members outside the District or to attend conferences or conventions requires prior approval through the consent agenda of a regular monthly Governing Board meeting. Non-scheduled travel outside the District or to attend any conference or convention requires prior approval of the Governing Board Chair, or in his absence, the Vice Chair.

<b>34<sup>th</sup> Annual Environmental Permitting School Marco Island July 20 - July 24, 2020 <i>These are approximate costs</i></b>				
<b>Name</b>	<b>Registration</b>	<b>Lodging \$185/Night</b>	<b>Mileage Cost</b>	<b>Meals</b>
Kelly Rice	\$600 (Early Registration)	\$555	\$205	\$79
James Murphy	\$725 (Attending Early Bird)	\$740	\$175	\$104
Mark Taylor	\$650	\$555	\$200	\$79

**Staff Recommendation:**Approve Governing Board travel as presented.**8. Knowledge Management - Comprehensive Fraud Governing Board Policy**

As part of the District's Knowledge Management initiative, all the District's Governing Board Policies are being reviewed by the respective divisions.

The District's Knowledge Management initiative was launched in FY2016 and is now a Core Business Process in the District's Strategic Plan. Knowledge Management is the practice of systematically and actively collecting, managing, sharing and leveraging the organization's data, information and processes. The focus since FY2018 has been on improving the organization of governing documents to facilitate knowledge sharing, ensure the alignment of division and bureau practices with Governing Board Policies and Executive Director Procedures, and allow for timely retrieval and review of existing governing documents.

Staff performed a review of the Comprehensive Fraud Governing Board Policy. Staff is proposing to change the document owner to the executive director, add the Office of Inspector General's fraud hotline number, add a method for anonymous reporting to the Office of General Counsel, add confidentiality exceptions for a Whistle-Blower in accordance with Florida Statutes, and other minor revisions. This item was brought to the Governing Board on May 19, 2020 and no further revisions were made.

Updating existing Governing Board Policies increases efficiencies and ensures organizational alignment.

**Staff Recommendation:**Staff recommends the Board approve the Comprehensive Fraud Governing Board Policy as revised.**9. Budget Transfer Report**

Request approval of the Budget Transfer Report covering all budget transfers made during the month of May 2020.

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 regularly presented to the Finance/Outreach & Planning Committee for approval on the Consent Agenda at the next scheduled meeting. The exhibit for this item reflects all such transfers executed since the date of the last report for the Committee's approval.

**Staff Recommendation:**Request approval of the Budget Transfer Report covering all budget transfers for May 2020.

**Resource Management Committee****10. FARMS – Bermont Properties, LLC – Section 34 (H784), Charlotte County**

To request approval for a Facilitating Agricultural Resource Management Systems (FARMS) project with Bermont Properties, LLC and approval to reimburse FARMS eligible costs up to a not-to-exceed limit of \$166,500 (75 percent of total project costs). Of this amount, \$166,500 is requested from the Governing Board FARMS Fund. Total project costs are estimated at \$222,000.

The District received a project proposal from Bermont Properties, LLC for their 1,500-acre citrus grove operation located 16 miles east of Punta Gorda, in eastern Charlotte County, within the Southern Water Use Caution Area (SWUCA) and Shell, Prairie, and Joshua Creek watersheds (SPJC). This project will involve the installation of a weather station to optimize irrigation scheduling and the installation and operation of a pumping station to utilize surface water collected from the surrounding watershed by an existing tailwater ditch system to offset Upper Floridan aquifer groundwater used for supplemental irrigation of 1,500 acres of citrus. The Water Use Permit (WUP) is issued to the East Charlotte Drainage District (ECDD) and authorizes an annual average withdrawal of 2,767,100 gallons per day (gpd) to irrigate 2,767 acres of citrus consisting of multiple grove property owners including Bermont Properties. Project components consist of one weather station, one surface water irrigation pump station, filtration system, valves, and the piping necessary to connect the existing irrigation system.

The proposed project involves water quantity and water quality best management practices for supplemental irrigation and qualifies for a 75 percent cost-share reimbursement rate under the FARMS Program. Using an estimated two percent savings of permitted quantities for daily irrigation, or 50,000 gpd, yields a daily cost of \$2.65 per thousand gallons of groundwater reduced over the proposed five-year contract term. This value is within the guidelines for the generally accepted average cost savings per thousand gallons for the implementation of alternative supplies and improved irrigation techniques for citrus grove operations. Reimbursement will be from the Governing Board FARMS Fund. Upon approval of this project, the Governing Board will have \$5,021,021 remaining in its FARMS Program budget.

**Staff Recommendation:**

- 1) Approve the Bermont Properties, LLC - Section 34 project for a not-to-exceed project reimbursement of \$ 166,500 with \$ 166,500 provided by the Governing Board;
- 2) Authorize the transfer of \$ 166,500 from fund 010 H017 Governing Board FARMS Fund to the H784 Bermont Properties, LLC - Section 34 project fund;
- 3) Authorize the Assistant Executive Director to sign the agreement.

**11. Central Florida Water Initiative Water Conservation Cost Share Program**

To provide the Board an overview of the CFWI Water Conservation cost share program, to request Board approval of two selected projects, and request a budget transfer of \$151,758 from the Water Supply and Water Resource Development Grant Program (WSWRDGP) funded by state appropriation for projects approved by the Florida Department of Environmental Protection (FDEP).

The FY2020 adopted budget included \$3,000,000 in state funds appropriated by the 2019 Florida Legislature for the establishment of a water supply and water resource development grant program to develop and implement conservation, reuse and other water supply and water resource development projects. At the November 2019 Governing Board, a budget transfer from the \$3,000,000 was approved in the amount of \$2,674,000 for three projects selected by the FDEP, leaving a balance of \$326,000.



In January, FDEP collaborated with the South Florida, St. Johns River, and Southwest Florida Water Management Districts (WMD) to develop a funding program that would solicit conservation projects within the CFWI to utilize state appropriation funds for water supply and water resource development that became available from a canceled project in the South Florida WMD. Staff from each of the three districts collaborated on guideline and application development for the CFWI Water Conservation cost share program. On February 17th, the application period opened, and on March 27th the application period closed.

An internal review team with staff from each district and FDEP reviewed 10 project applications. Five projects were ultimately recommended for funding. The projects were presented to the CFWI Steering Committee on May 29th and approved for funding. The projects also require approval by the respective Governing Boards of each district.

Two of the five projects selected by the CFWI Steering Committee are within the Southwest Florida Water Management District. The requested funding amount for the two projects is \$151,758 and they will conserve approximately 49,500 gallons per day (gpd).

The first project, High Efficiency Toilet (HET) and Irrigation Controller Rebates (P927), was submitted by the Polk Regional Water Cooperative (PRWC). This project had also been submitted to the District for FY2021 cooperative funding. The project includes toilet and urinal rebates, irrigation evaluations, enhanced conservation kits, and smart irrigation controllers. The project also includes program promotion, public outreach, and administrative costs. The anticipated water savings for this project is approximately 23,300 gpd. The total cost for this project is \$168,715 with \$84,358 coming from the state appropriation and \$84,357 from the PRWC. The project's cost effectiveness is \$2.63 per thousand gallons saved, which is within the high range for cooperative funding projects.

At the May 19th Governing Board meeting, the Board approved this project through the District's Cooperative Funding Initiative process as PRWC - Demand Management Implementation (Q187). The project was proposed to be funded with \$84,355 in ad valorem dollars as the District's share. With Board approval to utilize state appropriation dollars for project P927, project Q187 will be removed as part of the July FY2021 Budget Update.

The second project, Ag Irrigation System Improvements (P928), was submitted by Ray Bob Grove, Inc. It includes the purchase and installation of hydraulic control valves to reconfigure irrigation zones within the citrus grove. The anticipated water savings is approximately 26,200 gpd. The total cost for this project is \$171,808 with \$67,400 coming from the state appropriation (remaining funds available) and \$104,408 from Ray Bob Grove, Inc. The project's cost effectiveness is \$1.19 per thousand gallons of groundwater reduced, which is within the range established for similar projects.

Staff Recommendation:

- 1) Approve the two selected projects within the District's boundaries.
- 2) Approve a budget transfer of \$151,758 in state appropriations from Water Supply and Resource Development Grant Program (H103) to:
  - PRWC - HET and Irrigation Controller Rebates (P927) in the amount of \$84,358; and
  - Ray Bob Grove - Ag Irrigation System Improvements (P928) in the amount of \$67,400.
- 3) Approve the removal of \$84,355 currently in the FY2021 proposed budget for the PRWC
  - Demand Management Implementation project (Q187).

**12. Initiation and Approval of Rulemaking to Amend Rule 40D-8.623, Florida Administrative Code, to Remove Minimum Wetland Level for Cross Bar Q-25 (Stop #7) in Pasco County**

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

Cross Bar Q-25 (Stop #7), and accept the report entitled: "Revised Minimum Levels Based on Reevaluation of Levels Adopted for 41 Southwest Florida Water Management District Wetlands" dated April 14, 2020.

Minimum levels are water levels at which further withdrawals would be significantly harmful to the water resources of the area. A minimum level for the Cross Bar Q-25 (Stop #7) wetland was adopted into Rule 40D-8.623, F.A.C., in 2000. Section 373.0421(3), Florida Statutes, requires that minimum flows and levels shall be reevaluated periodically and revised as needed.

In 2000, 41 wetland Minimum Levels were adopted in Rule 40D-8.623, 40 of which were reevaluated in 2019. The Governing Board approved changes to this rule provision, based upon the reevaluation of these wetlands, in November 2019, and the corresponding rule amendments became effective in April 2020. These amendments included revised levels for 19 wetlands, removal of minimum levels for 7 wetlands, and adoption of minimum levels for 2 new wetlands. Cross Bar Q-25 (Stop #7) was the one remaining wetland of the original 41 for which re-evaluation needed to be completed. Consistent with prior wetland minimum level reevaluations, this reevaluation was completed using peer-reviewed methodologies, as well as up-to-date hydrologic, biologic, and survey data. The updated data resulted in the recommendation to remove the minimum level for Cross Bar Q-24 (Stop #7) from Rule 40D-8.623, F.A.C.

This wetland is proposed to be removed from the rule for technical and scientific reasons. During reevaluation, it was determined that this site does not qualify for assessment using the peer-reviewed method for setting wetland minimum levels, because it does not have a reliable, reproducible Historic Normal Pool. The area has other remaining environmental protection in place with the two nearby established wetland minimum levels along with other monitored wetlands and lakes.

The District held a public workshop on September 18, 2019, at the District's Tampa Service Office to explain proposed minimum level reevaluations for the established wetlands within the District and to seek public input. As a result of feedback, and to be responsive to stakeholders' input, the District completed additional analyses for the Cross Bar Q-25 (Stop #7) wetland which resulted in this recommendation to remove the minimum level for this wetland. A summary of the public workshop, including comments and discussion, is available upon request. The results of the additional analyses were both emailed to the original workshop attendees and updated in the associated technical report entitled "Revised Minimum Levels Based on Reevaluation of Levels Adopted for 41 Southwest Florida Water Management District Wetlands", which was posted on the District's website on April 14, 2020.

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

The proposed rule language removing the minimum level for the Cross Bar Q-25 (Stop #7) wetland is attached as an exhibit to this recap. Upon Governing Board approval of the proposed rule amendment, staff will submit a notice to the Governor's Office of Fiscal Accountability and Regulatory Reform (OFARR) and proceed with formal rulemaking without further Governing Board action. If substantive changes are necessary as the result of comments received from the public or from reviewing entities such as OFARR or the Joint Administrative Procedures Committee, this matter will be brought back to the Governing Board for consideration.

Staff Recommendation:

- A. Accept the report entitled, "Revised Minimum Levels Based on Reevaluation of Levels Adopted for 41 Southwest Florida Water Management District Wetlands."
- B. Authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process and to complete report finalization.
- C. Initiate rulemaking and approve the proposed rule language to amend Rule 40D-8.623, F.A.C., to remove the Cross Bar Q-25 (Stop #7) minimum level, as shown in the Exhibit.

**Operations, Lands, and Resource Monitoring Committee****13. Knowledge Management: Sale, Exchange or Conveyance of Interests in Land by the District**

Request Governing Board approval of the revised Sale, Exchange or Conveyance of Interests in Land by the District Policy containing two of the three updates proposed in September of 2019. There is no change in the biennial surplus lands assessment requirement in this Policy. The revised Policy is included as Exhibit 1.

The District's Knowledge Management initiative was launched in Fiscal Year (FY) 2016 and is now a Core Business Process in the District's Strategic Plan. Knowledge Management is the practice of systematically and actively collecting, managing, sharing and leveraging the organization's data, information and processes. The focus is improving the organization of governing documents to facilitate knowledge sharing, ensure the alignment of division and bureau practices with Governing Board Policies and Executive Director Procedures, and allow for timely retrieval and review of existing governing documents.

Staff performed a review of the Sale, Exchange or Conveyance of Interests in Land by the District Policy and deemed it necessary to update the policy. The revised policy has been provided as an exhibit. The modifications include authorizing the Operations and Land Management Bureau Chief or designee to sign closing documents that do not require Governing Board approval and removing the requirement that the Governing Board must approve sales methods other than a broker or auction. The request to change the surplus lands assessment from two years to five years has been eliminated and the assessment will continue to occur biennially.

Updating existing Governing Board Policies increases efficiencies and ensures organizational alignment.

Staff Recommendation:

Approve the Policy for the Sale, Exchange or Conveyance of Interests in Land by the District as revised.

**14. Non-Exclusive Utility Easement to Tampa Electric Company (TECO) on the Brooker Creek Headwaters Nature Preserve for the Zambito Property – SWF Parcel No. 14-074-160X**

Request Governing Board approval for the conveyance of a proposed no cost, 30-foot wide, non-exclusive utility easement to Tampa Electric Company (TECO Easement) over 0.25 acres (10,881 square feet) located on the District's Brooker Creek Headwater Nature Preserve (Preserve). A general location map, site map and the TECO Easement are attached as Exhibit 1, 2 and 3, respectively.

The District and Hillsborough County purchased the Preserve subject to the Keystone Park Colony platted development. The historical plat has multiple public road right of ways (platted roads) incorporated within the development for public access purposes. Three specific 30-foot platted roads extend across the Preserve and connects Ramblewood Road, a public road

that traverses the Preserve, to the Nelson and Pauline Zambito property. These platted roads are not developed.

In May 2017, the Governing Board approved the conveyance of a no cost, non-exclusive easement (Zambito Easement) to the Nelson and Pauline Zambito property, a copy of which is attached hereto as Exhibit 4, in response to Mr. and Mrs. Zambito's request to modify an existing point of access to their property that transected a portion of the Preserve and in exchange for vacating one of the three the previously mentioned platted, 30-foot wide roads, (0.30 acres, 13,086 square feet).

The Zambito Easement allows for sufficient rights to install utility lines to provide service to the Zambito property. However, TECO has indicated to Mr. and Mrs. Zambito that in order to install the contemplated utility lines mentioned above, they require a separate, stand-alone utility easement from the District for the benefit of TECO.

The proposed TECO Easement allows for rights necessary to construct, install, operate, utilize, patrol, inspect, alter, improve, repair, rebuild, relocate or remove such lines, systems and supporting structures (including poles) and related facilities, including the right to increase or decrease the number and type of supporting structures (including poles), wires and voltage, and to build, maintain and protect such roadways as may reasonably be required for these purposes subject to indemnifying the District. In the event the TECO Easement is no longer required, TECO will release the rights, title and interest in the TECO Easement.

#### *Appraisal and Valuation Summary*

Values were not obtained from an appraiser because the right to construct utilities was already granted by the District through the Zambito Easement.

Approval of the TECO Easement will provide appropriate authorization to construct, operate and maintain utilities to the Nelson and Pauline Zambito property and will indemnify the District. This is a no cost easement.

#### Staff Recommendation:

- Approve the conveyance of a no cost, non-exclusive utility easement to TECO.
- Authorize staff to execute any other documents necessary to complete the transaction in accordance with the approved terms.

#### **15. Non-Exclusive Perpetual Easement for Lake Arietta Access – SWF Parcel No. 10-201-115P**

Request acceptance of a Non-Exclusive Perpetual Access Easement (Easement) for the District to access the remote water-level monitoring equipment for Lake Arietta installed on a privately owned dock. Exhibits will be provided under separate cover.

The Hydrologic Data Section supports the operations of the District's water management activities by collecting water resource data such as staff gauge water level data in certain bodies of water. Many of these sites are located on private property due to lack of public property access. In order to obtain continuous water level readings throughout the highs and lows of the hydrologic cycle, equipment is often installed on public and private docks, which extend into the water body allowing for deeper water measurement points.

The private dock on Lake Arietta has been used by the District for this purpose for many years through a verbal agreement with the property owner. However, the dock is falling into disrepair, endangering staff required to visit the site monthly to collect data and ensure the equipment is in top operational condition. The Hydrologic Data Section has budgeted funds for repairs to docks for this purpose, but in order to repair the private dock, we have requested a permanent easement from the property owner to ensure continued use, necessary liability and other conditions as outlined below are met.

The Easement conditions include but are not limited to the following:

- Perpetual access to enter upon, over, on, under and across the Easement area.
- Owner reserves the right to continue to use the Easement area so long as it is compatible with the District's use.
- Owner will indemnify the District pursuant to the District's standard requirements.

Monitoring the water level of Lake Arietta in near real-time is of critical importance to the District's water management activities. The repair cost for this dock is \$4,550, which was approved in the FY2020 budget for this purpose.

Staff Recommendation:

- Approve the acceptance of a Non-Exclusive Perpetual Easement; and
- Authorize staff to sign documents at closing necessary to complete the transaction in accordance with the approved terms.

## **Regulation Committee**

### **16. Individual Water Use Permits Referred to the Governing Board**

#### **a. WUP No. 20012159.002 / AgrotecHemp / AgrotecHemp Corporation (Marion County)**

This is a renewal with modification of an existing water use permit for agricultural use. The total authorized quantities shown above are an increase from the previous permit. The annual average has increased from 323,740 gallons per day (gpd) to 1,073,400 gpd. The peak month average has increased from 1,157,800 gpd to 1,636,800 gpd. The increases in the authorized annual average and peak month quantities are due to a change in crop type from 240 acres of peanuts to 381 acres of hemp. Quantities are based on the District's allocation program AGMOD and information provided by the applicant.

Special Conditions include those that require the Permittee to begin recording and reporting monthly meter readings, implement the District-approved water conservation plan and submit a report on implementation and new components every five years, and submit meter calibration reports every five years.

Staff Recommendation:

Approve the proposed permit attached as an exhibit.

## **General Counsel's Report**

### **17. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval**

#### **a. Approval of Consent Order Between SWFWMD and Farrell Homes, Inc. and Van Buren Land Holdings, Inc. – Violation of Permit Conditions for Construction – ERP No. 44033097.000 (EXPIRED) – CT No. 384019 – Pinellas County**

This enforcement matter involves the failure of Farrell Homes, Inc. and Van Buren Land Holdings, Inc. (Permittees), to comply with Environmental Resource Permit No. 44033097.000 (Permit). Permittees failed to comply with the Permit's requirements regarding transfer of the project to the homeowner's association established as the operation and maintenance entity. Additionally, Permittees failed to meet construction

conditions established in the Permit.

On April 26, 2019, District staff sent a Notice of Violation informing Permittees that they failed to submit the required documents needed to transfer the project to the operation and maintenance entity. Further, District staff informed the Permittees that an on-site dry detention system regularly holds water for more than 36 hours in violation of Specific Condition 14 of the Permit, and that part of the effluent filtration system is not in compliance with the permitted plans in violation of General Condition 1 of the Permit. The Notice of Violation stated the project must be brought into compliance within 30 days. Despite additional communications between Permittees and District staff, the project was not brought into compliance.

On June 26, 2019, District staff sent a Notice of Violation with a proposed Consent Order to the Permittees. The proposed Consent Order assessed \$6,000.00 in penalties and \$2,700.00 in enforcement costs for a total fine of \$8,700.00. Further, the proposed Consent Order required corrective construction to remedy the defects in the construction of the project. The Permittees rejected the proposed Consent Order.

On July 23, 2019, the District Governing Board authorized issuance of an Administrative Complaint and Order (ACO) against Permittees and any necessary parties to achieve compliance with the Permit. The District staff issued the ACO to James Marcus Vernon, Van Buren Land Holdings, and Farrell Homes (Respondents) on October 11, 2019. On November 5, 2019, the District received Respondents' Petition for an Administrative Hearing in Response to the Administrative Complaint, and the administrative action was submitted to the Division of Administrative Hearings (DOAH).

A hearing was scheduled before DOAH for June 8, 2020. However, in lieu of proceeding to the hearing scheduled before DOAH, Respondent, Van Buren Land Holdings agreed to perform corrective construction to bring the site into compliance with District rules. The terms of the proposed Consent Order (Exhibit A) obligate Van Buren Land Holdings to retain a construction crew and begin construction on a stormwater management system as permitted and approved by the District. The stormwater management system is to be completed within 90 days of approval of the Consent Order by the District's Governing Board. The parties were unable to agree to penalties in the Consent Order, but by acceptance of the Consent Order the District will be able to proceed to circuit court to initiate an action to seek an award of District penalties, costs, and attorneys' fees pursuant to Florida Statute § 373.129.

Staff Recommendation:

- 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.
- 3) Authorize District staff to initiate an action in circuit court to recover penalties, costs, and attorneys' fees for the violations stated in the Consent Order.

**b. Approval of Consent Order Between SWFWMD and Emerson Gibbs – Unauthorized Construction – CT No. 403478 – Charlotte County**

Emerson Gibbs (Property Owner) owns property located at 26001 Zemel Road, Punta Gorda, Florida 33955 (Property). On October 26, 2018, the District received a complaint that unauthorized construction activities were occurring on the Property. On March 26,

2019, District staff conducted a site inspection and observed that the Property Owner excavated a ditch on the Property that was discharging water offsite without proper authorization. District staff also observed additional dredging and filling of the Property had occurred for the creation of an access road. As a result of the inspection and additional investigation, District staff determined that 1.41 acres of uplands and 0.29 acres of wetlands were impacted by unauthorized construction.

On May 21, 2019, and September 4, 2019, District staff issued a Notice of Unauthorized Agricultural Activities to the Property Owner, and a proposed Consent Order was issued on December 19, 2019. The Property Owner provided District staff with a 2008 ecological study that he erroneously believed provided authorization for the activities that occurred at the Property. District staff met with the Property Owner on January 30, 2020, to discuss the 2008 study and options to correct the unauthorized impacts.

The Property Owner subsequently agreed to execute a Consent Order that requires complete restoration of the Property in accordance with a District-approved Corrective Action Plan (Plan). The corrective actions required by the Plan must be completed within 90 days of the Governing Board's approval of the Consent Order. The Consent Order also requires the payment of \$2,000.00 in penalties and District enforcement costs.

Staff Recommendation:

- 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.

**c. Approval of Consent Order Between SWFWMD and Etcetera, Etc., Inc. – Operation Without a Permit – ERP No. 404221.01 – CT No. 380718 – DeSoto County**

On May 17, 1989, the District issued Permit No. 404221.01 (Permit) to Pembroke Land Development, Inc. (Pembroke) for the construction of a surface water management system designed to serve an 84.970-acre mixed-use residential and golf course subdivision in DeSoto County (Project). The surface water management system was designed to convey surface water runoff through an interconnected system of wetlands, lakes, and pipes located on the residential parcels and golf course tracts located within the Project boundaries.

On September 10, 2015, District staff inspected the Project in response to a complaint from DeSoto County that the system was not functioning properly. The site inspection revealed several deviations from the approved surface water management system construction plans and that Etcetera, Etc., Inc. (Etcetera), had obtained ownership of the golf course portion of the Project. The District issued a Notice of Permit Condition Violation to Etcetera advising that Etcetera was operating the surface water management system without a permit and that the construction deviations must be corrected to bring the Project into compliance. The Parties engaged in discussions to resolve the compliance issues but were unable to come to an agreement prior to further enforcement action.

On September 20, 2019, District staff issued an Administrative Complaint and Order to Etcetera to resolve the compliance issues. The Administrative Complaint and Order became final agency action, and the District initiated an action against Etcetera in circuit court to obtain compliance with the Permit and recover a civil penalty. Shortly after filing the complaint, the Parties re-engaged in settlement discussions in order to avoid further litigation or enforcement action. On March 25, 2020, Etcetera submitted to the District a proposed Action Plan identifying deficient surface water management system structures

and providing for the action required to correct each deficiency. District staff approved the Action Plan on April 15, 2020.

Etcetera agreed to a Settlement Agreement following District staff approval of the Action Plan. The Settlement Agreement provides for the initial payment of \$8,869.00 and requires Etcetera to complete all required actions identified in the Action Plan within 90 days of the Governing Board's approval of the Settlement Agreement. If Etcetera fails to perform the obligations set forth in the Settlement Agreement, an additional sum of \$5,000.00 will become due immediately. The District will voluntarily dismiss the pending circuit court action upon Etcetera's timely performance of the obligations in the Settlement Agreement.

Staff Recommendation:

- 1) Approve the Settlement Agreement.
- 2) Authorize District staff to pursue additional enforcement measures to obtain compliance with the terms and conditions of the Settlement Agreement, including filing any appropriate actions in circuit court, if necessary.

**d. Authorization to Issue Administrative Complaint and Order – Well Construction Violations – Carl Douglas, Jr. – License Number 9127 – CT No. 409162 – Highlands, Polk, and Hardee Counties**

Carl Douglas, Jr. (Douglas) is a licensed water well contractor holding License No. 9127 (License), whose mailing address is 2404 Greenleaf Road, Zolfo Springs, FL 33890. Mr. Douglas operates Douglas Well Drilling, LLC, and conducts business under that name.

Douglas has violated District Order No. SWF 19-032 (District Order), which was issued by this Governing Board and rendered as a final order on November 26th, 2019. The District Order required that Douglas perform certain corrective actions and pay penalties as required in the "Water Well Contractor Disciplinary Guidelines and Citation Dictionary." Douglas has failed to comply with the District's order for corrective actions. Additionally, Douglas has not paid penalties as ordered. To enforce the District Order, the District's Office of General Counsel initiated litigation in Case No. 20000112CA pending in the Twentieth Judicial Circuit for Charlotte County.

The District Order also added new observation requirements over Douglas's well construction business. The District Order required Stipulation #48 - Well Construction Notification be appended to all permits pulled by Douglas. The stipulation states the following: "The contractor shall notify the District 24 hours prior to the start of construction of this well." On five separate occasions, Douglas has failed to comply with this observation requirement. In each case mentioned below, Douglas failed to notify the District prior to commencing construction of the water wells.

- On December 16, 2019, Well Construction Permit (WCP) No. 884920 was issued authorizing the construction of a 4-inch diameter domestic water well. On January 13, 2020, a Well Completion Report was submitted stating that construction of this well was completed on December 20, 2019.
- On January 14, 2020, WCP No. 885571 was issued authorizing the construction of a 4-inch diameter domestic water well. On January 31, 2020, a Well Completion Report was submitted stating that construction of this well was completed on January 17, 2020.
- On February 6, 2020, WCP No. 886360 was issued authorizing the construction of a 4-inch diameter domestic water well. On February 18, 2020, a Well Completion



Report was submitted stating that construction of this well was completed on February 11, 2020.

- On February 13, 2020, WCP No. 886563 was issued authorizing the construction of a 4-inch diameter domestic water well. On April 4, 2020, District staff conducted a site visit at the permit site and observed ongoing well construction on the property.
- Lastly, on March 5, 2020, WCP No. 887246 was issued authorizing the construction of a 4-inch diameter domestic water well. On April 3, 2020, District staff conducted a site visit at the permit site and observed ongoing well construction on the property.

Pursuant to the "Water Well Contractor Disciplinary Guidelines and Citation Dictionary," for the current violations Douglas should be assessed 32 points against his license and should pay a total of \$6,000.00 in fines. Further, as Douglas currently has 18 points assessed to his license, with the additional assessment of 32 points for the latest violations, Douglas's license will be revoked for a minimum of one year.

The District issued a new Notice of Violation for the failure to comply with Stipulation #48, and to attempt to resolve the pending litigation. Douglas has failed to respond to the Notice of Violation, and District staff now seek authorization to issue a new Administrative Complaint and Order encompassing the latest violations.

Staff Recommendation:

- 1) Authorize District staff to issue an Administrative Complaint and Order to Carl Douglas, Jr. to recover an administrative fine/civil penalty, and recover any District costs and fees, if appropriate.
- 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.

**e. Authorization to Issue Administrative Complaint and Order – Unauthorized Construction – Abdelijalil and Cindy Lou Bekkach – 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.

The District issued the Owners a Notice of Violation on October 4, 2016 concerning the activities that occurred at the Property without an ERP. The Notice advised that the activities did not qualify for an agricultural exemption and that any regulated activity undertaken at the Property without an ERP could result in monetary penalties and further enforcement action if not corrected in a timely manner. District staff initiated further

attempts to contact the Owners to resolve the violations without further enforcement action. After these efforts were unsuccessful, the District issued a Second Notice of Violation to the Owners on August 6, 2019 but received no response.

District staff eventually contacted the Owners and conducted a site visit at the Property on February 26, 2020. 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. Following the site visit, the Owners have not contacted the District regarding the violations, and the Property remains in noncompliance.

Staff Recommendation:

- 1) Authorize District staff to issue an Administrative Complaint and Order to the Owners 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 against the Owners to recover a civil penalty/administrative fine, enforcement costs, litigation costs, and attorneys' fees, if appropriate.

**f. Approval of Declaration of Restrictive Covenant – Tampa Bypass Canal Land Fill Site – SWF Parcel Nos. 114 (13-001), 125 (13-001), and 126 (13-001) – Hillsborough County**

The District owns three parcels of contiguous real property in Hillsborough County known as the Tampa Bypass Canal Landfill Site (together referred to as the "Property"). The Property was formerly operated as a general refuse landfill for approximately 10 years from 1956 to 1965, and the District purchased the Property in 1968. During construction of the Tampa Bypass Canal in the 1970s, dredging occurred in the vicinity of the Property. In 1983, shoreline erosion exposed buried landfill materials on the Property. In June 1997, the District retained HSA Engineers and Scientists (HSA) to develop a voluntary cleanup plan and prepare a Contamination Assessment Report (Report) for submission to the Florida Department of Environmental Protection (FDEP). The Report documented the presence of volatile organic compounds (VOCs) and base/neutral and acid extractable compounds (BNAs) in the soil and groundwater at the Property. Polychlorinated biphenyls (PCBs) would later be detected during semiannual groundwater monitoring. In March 2002, the District submitted its final Report to FDEP, which included a remedy involving a "sheet pile" retaining wall to prevent exposed landfill material from coming into contact with the surface waters of the Tampa Bypass Canal. The District commenced construction on the Property in 2003 to excavate landfill debris and maintained the semiannual groundwater monitoring program, regularly reporting to FDEP, from 2004 through 2011.

Following successful implementation of a voluntarily developed cleanup plan, FDEP issues Site Rehabilitation Completion Orders that may include institutional controls to reduce or eliminate risk of exposure to contaminants or to eliminate the threat of contaminant migration. These institutional controls are implemented through recording a Declaration of Restrictive Covenants on the area of the Property where contamination was located (Restricted Property).

In this instance, FDEP has agreed to issue a Site Rehabilitation Completion Order with Conditions for the Property. However, FDEP requires a Declaration of Restrictive Covenants and access easement to be recorded on the Property as a condition for issuing the Site Rehabilitation Completion Order. The institutional controls established in the Declaration of Restrictive Covenants include:

- A prohibition on groundwater use;
- A prohibition on constructing groundwater wells;
- A requirement to obtain FDEP authorization to conduct any dewatering activities;
- A prohibition on stormwater swales, stormwater detention or retention facilities, or ditches
- A requirement to permanently cover and maintain the Restricted Property with a minimum of two (2) feet of clean and uncontaminated soil;
- A requirement that a soil cap and retaining wall (Engineering Control) be implemented; and
- A requirement that an Engineering Control Maintenance Plan (ECMP) be approved by FDEP.

The District does not conduct any activities on the Property that are prohibited by the Declaration of Restrictive Covenants. Furthermore, the District has already implemented the required Engineering Controls and obtained approval of the ECMP for the site. Accordingly, District staff recommend approval of the Declaration of Restrictive Covenants for the Property to allow the District to proceed with obtaining the Site Rehabilitation Completion Order.

Staff Recommendation:

Approve the Declaration of Restrictive Covenants for the Property and authorize the Chairman and Secretary to execute the Declaration of Restrictive Covenants on the District's behalf.

**g. Governing Board Concurrence – Emergency Order No. SWF 20-023 – Emergency Measures Made Necessary by COVID-19**

On May 8, 2020, the District's Executive Director issued Amended and Restated Emergency Order No. SWF 20-020 (Amended and Restated Emergency Order) in accordance with the Governor's Executive Order Nos. 20-52 and 20-114 declaring a state of emergency throughout Florida due to the Novel Coronavirus Disease 2019 (COVID-19). The District's Amended and Restated Emergency Order extended the duration of Emergency Order No. SWF 20-014 through May 31, 2020, and provided for the following narrowly tailored measures to assist the immediate need for action:

- Extension of permitting deadlines.
- Temporary closure of public buildings and facilities.
- Provision for conducting public meetings exclusively through audio/visual technology.

On May 19, 2020, the District's Governing Board concurred with the Executive Director's findings and approved the Amended and Restated Emergency Order.

The Governor's Executive Orders and Section 373.119, Florida Statutes, authorize local agencies and governments to take actions necessary to meet the emergency. Such actions may include, among others, waiving the procedures and formalities otherwise required to perform public work as necessary to ensure the health, safety, and welfare of the community. The District's Executive Director and staff have found that a limited extension of the District's Amended and Restated Emergency Order is necessary to meet the ongoing public health emergency. As a result, the Executive Director issued Second Amended and Restated Emergency Order No. SWF 20-023 (Emergency Order 20-023) on June 1, 2020 to extend the duration of the Amended and Restated Emergency Order through July 7, 2020. The July 7, 2020 expiration date is consistent with the expiration date of the Governor's Executive Orders and the Department of Environmental Protection's Second Amended and Restated Emergency Order No. 20-0239.

Section 373.119 also requires the District's Governing Board to concur with the findings

and conclusions in Emergency Order 20-023. If approved, Emergency Order 20-023 would remain in effect until July 7, 2020, unless terminated or extended by further order.

Staff Recommendation:

Approve Second Amended and Restated Emergency Order No. SWF 20-023 and concur with the Executive Director's determinations regarding the state of emergency and the actions necessary to meet the emergency.

**18. Rulemaking – None**

**Executive Director's Report**

**19. Approve Governing Board Minutes – May 19, 2020**

Staff Recommendation:

Approve minutes as presented.

<b>FINANCE/OUTREACH &amp; PLANNING COMMITTEE (TAB C)</b>
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**Discussion**

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

**21. Knowledge Management: Governing Board Committee Responsibilities and 110-1 Policies and Procedures Governing Board Policies**

As part of the District's Knowledge Management initiative, all the District's Governing Board Policies are being reviewed by the respective divisions.

The District's Knowledge Management initiative was launched in FY2016 and is now a Core Business Process in the District's Strategic Plan. Knowledge Management is the practice of systematically and actively collecting, managing, sharing and leveraging the organization's data, information and processes. The focus since FY2018 has been on improving the organization of governing documents to facilitate knowledge sharing, ensure the alignment of division and bureau practices with Governing Board Policies and Executive Director Procedures, and allow for timely retrieval and review of existing governing documents.

**Governing Board Committee Responsibilities Governing Board Policy**

The Governing Board Committee Responsibilities Governing Board Policy combines the following five Governing Board policies into one policy:

- 110-3 Governing Board Committee Responsibilities
- 110-3A Governing Board Committee Responsibilities Finance/Outreach & Planning Committee
- 110-3B Governing Board Committee Responsibilities - Regulation Committee
- 110-3C Governing Board Committee Responsibilities - Operations, Lands & Resource Monitoring Committee
- 110-3E Governing Board Committee Responsibilities - Resource Management Committee

Some of the major changes to the new policy include having only one Statement of Policy at the beginning of the document, deleting the unnecessary bulleted lists of District policies over which each Committee has oversight and streamlining the Committees' tasks. The new policy identifies the overall tasks, or topics, over which each Committee has oversight. Policies are assigned to Committees based on which topics the Committees cover.

**110-1 Policies and Procedures Governing Board Policy**

The 110-1 Policies and Procedures Governing Board Policy was reviewed by the District's General Counsel and was deemed unnecessary. The policy is therefore recommended for deletion.

Updating existing Governing Board Policies increases efficiencies and ensures organizational alignment.

**Staff Recommendation:**

This item is presented for the Board's information and no action is requested. The Governing Board Committee Responsibilities and 110-1 Policies and Procedures Governing Board policies will be included as a consent item at the next Governing Board meeting and approval will be requested at that time.

**22. Fiscal Year 2021 Recommended Annual Service Budget**

Submit fiscal year (FY) 2021 Recommended Annual Service Budget (recommended budget) for consideration by the Governing Board as required by statute; and authorize staff to prepare the Standard Format Tentative Budget Submission based on the recommended budget, adjusted for any modifications made by the Governing Board on June 23, changes in estimated ad valorem revenue based on the July 1 certifications of taxable value and any additional funding provided by the state.

Pursuant to Section 373.536(2), Florida Statutes (F.S.), the District shall, on or before July 15 of each year, submit for consideration by the Governing Board a tentative budget for the District covering its proposed operations and funding requirements for the ensuing fiscal year. On June 23, staff will present the recommended budget to the Governing Board.

Pursuant to Section 373.536(5)(d), F.S., by August 1 of each year, the District shall submit for review a tentative budget and a description of any significant changes from the preliminary budget submitted to the Florida Legislature to the Executive Office of the Governor (EOG), President of the Senate, Speaker of the House of Representatives, chairs of all legislative committees and subcommittees having substantive or fiscal jurisdiction over water management districts, Secretary of the Department of Environmental Protection, and the governing body of each county in which the District has jurisdiction or derives any funds for the operations of the District. This tentative budget is known as the Standard Format Tentative Budget Submission.

Staff will provide an overview of the FY2021 recommended budget including a review of proposed expenditures and revenues. Expenditures will be reviewed by fund, category, program, and area of responsibility. The recommended budget provided to each Governing Board member as an exhibit to the overview includes charts, variance analysis, and detailed descriptions of each project.

At the July 28 Governing Board meeting, staff will present the 16-county property appraisers' certifications of taxable value and the proposed FY2021 millage rate in compliance with s. 373.503(4) and s. 200.065, F.S. The Governing Board will be requested to adopt the proposed FY2021 millage rate to ensure certification to the county property appraisers by August 4. The proposed millage rate is the rate that will be used for Truth in Millage (TRIM) Notices of Proposed Property Taxes. In addition, the Governing Board will be requested to authorize staff to submit the District's Standard Format Tentative Budget Submission for FY2021 to the EOG, Florida Legislature, and other parties, as required by statute, to be received by August 1, 2020.

The District's FY2021 final millage rate and budget will be adopted in September following two public budget hearings. The first hearing is scheduled for September 8, 2020 at 5:01 p.m.

at the Tampa Office. Written disapproval of any portion of the Tentative Budget Submission must be received from the EOG or the Legislative Budget Commission at least five business days prior to the final budget hearing. The second and final hearing is scheduled for September 22, 2020 at 5:01 p.m. also at the Tampa Office.

Exhibit of the recommended budget will be provided separately.

Staff Recommendation:

Authorize staff to prepare the Standard Format Tentative Budget Submission for FY2021 based on the recommended budget as presented, adjusted for any modifications made by the Governing Board on June 23, changes in estimated ad valorem revenue based on the July 1 certifications of taxable value and any additional funding provided by the state.

**23. District Boat Replacement**

Request Governing Board approval to utilize budgeted funds from the Capital Field Equipment Fund (CFEF) to replace boats 3101 and 3316 with one 24-foot aluminum landing craft boat.

Multiple sections within the District utilize watercraft to perform various work-related tasks on the water such as maintenance of structures and canals, deployment of buoys and boat barriers, placement of lake gauges, and maintenance and placement of data monitoring equipment. The available District-owned watercrafts to perform this work are aging and do not meet the needs required to efficiently perform the work.

A Fiesta 18-foot Pontoon Boat purchased in 2004 (unit 3101) is used to perform maintenance tasks, however the pontoon boat was designed and manufactured for use as a pleasure boat. The deck capacity is unknown and has been repaired with plywood multiple times. A hand-crank lifting device for the replacement of lake gauges was installed. The high deck height of the pontoon boat makes it difficult to access items at or below the water level such as buoys and boat barriers for our water control structures, sunken boats, and various other items including trees, rocks, and other debris that frequently obstructs flow within District canals and water control structures. Due to the limitations of the lifting device, staff are unable to remove large and/or heavy objects or are having to manually remove them from the waterways. The limitation of the lifting device and use of manpower is inefficient and could pose a risk to the public if flow-obstructing debris cannot be removed.

District staff also use a 16-foot Carolina Skiff purchased in 2008 (unit 3316), however, this vessel's design offers limited use and cannot be used for the high-level maintenance needed. Therefore, it is only used to perform general travel on the waterways and, as such, is underutilized.

There is a continued need for a boat capable of handling the work-related tasks. The current pontoon boat is being used for purposes beyond its design and the skiff is underutilized. Frequent repairs are also needed due to the age and design limitations. The purchase of one aluminum landing craft boat designed for the purpose and capabilities to provide for safe and efficient accomplishment of these work-related tasks will allow for the disposition of the two older boats (units 3101 and 3316).

The aluminum landing craft boat is engineered to conduct work-related tasks and includes the following features:

- Aluminum hull (0.25 inch or greater)
- Side-mounted crane hull capable of supporting an electric/hydraulic 2,500 lb. crane (smallest available folding crane)

- Front drop-down platform capable of supporting staff and providing easier access to the waterway
- Safety features for conducting work-related tasks (railings, a lower deck height, harness tie-offs); and
- Meets all United States Coast Guard requirements for the District's use.

This boat expands the work capabilities, improves efficiency, and reduces safety risks associated with conducting tasks such as installing, removing and realigning buoys and boat barriers and the associated cement barrier anchors (ranging in weight between 150 and 500 pounds); and removing abandoned boats, trees and other debris. Additionally, this boat will improve the safety associated with water control structure maintenance activities, maintenance and inspection diving, and lake gauge maintenance.

The purchase of this boat will also decrease maintenance and the associated downtime needed for repairs. Boat 3101 is 16 years old and has reached the end of its useful life. It was purchased for \$13,865 and has a life-to-date maintenance cost of \$14,501. The current condition is poor and frequent repairs have contributed to delays on projects. Boat 3316 is 12 years old and was purchased for \$11,803. It has a life-to-date maintenance cost of \$5,401. Downtime due to repairs can cause extended delays in meeting project deadlines, increase safety risks to the public, and equipment failures if maintenance is not performed timely.

To qualify as a CFEF expenditure, the field equipment must meet the following criteria:

- Rolling stock (excluding vehicles less than 1.5 ton),
- Total estimated cost equal to or greater than \$1,000 including delivery, and
- Anticipated useful life of at least five years.

Although the landing craft boat qualifies as a CFEF expenditure, it was not included in the FY2020 Annual Service Budget as a planned expenditure during the fiscal year. Unplanned expenditures from the CFEF are subject to adhering to the Budget Authority Transfer of Funds Governing Board Policy.

The current CFEF for Fiscal Year 2020 has an allocation for a 17-foot boat with an expected cost of \$25,600. Savings have been realized in year-to-date purchases and two items were eliminated from purchase due to utilization reviews, yielding a year-to-date savings of \$88,107. The budget for the 17-foot boat and the savings mentioned, as well as the balance of the fund, allow funding for the purchase of the requested boat through the Fiscal Year 2020 CFEF.

Staff Recommendation:

- Approve the purchase of a 24-foot landing craft boat for \$149,597 utilizing the CFEF.
- Approve the surplus disposition of existing boats 3101 and 3316.

**Submit & File Reports – None**

**Routine Reports**

*The following items are provided for the Committee's information, and no action is required.*

24. **Treasurer's Report and Payment Register** (provided under separate cover)
25. **Monthly Financial Statement** (provided under separate cover)
26. **Monthly Cash Balances by Fiscal Year** (provided under separate cover)
27. **Comprehensive Plan Amendment and Related Reviews Report**

## RESOURCE MANAGEMENT COMMITTEE (TAB D)

### Discussion

#### 28. Consent Item(s) Moved for Discussion

#### 29. Draft Charlotte Harbor Surface Water Improvement and Management (SWIM) Plan (W501)

The purpose of this item is to request approval to submit the draft Charlotte Harbor SWIM Plan, dated May 2020, to the agencies and stakeholders in accordance with Section 373.453, Florida Statutes (F.S.).

In 1987, the Florida Legislature established the Surface Water Improvement and Management (SWIM) Act in response to the increasing occurrence of surface waterbodies that were either determined to be degraded or were trending towards degradation. The Act requires the five water management districts to maintain and update a priority list of water bodies of regional or statewide significance within their boundaries and develop plans and programs for the improvement of those water bodies.

Charlotte Harbor was added to the District SWIM Priority Waterbody List during the first update in 1988. In 1993, in accordance with Section 373.453, Florida Statutes (F.S.), the Governing Board adopted the first Charlotte Harbor SWIM Plan. The original plan outlined issues and management actions associated with the three focus areas of water quality, hydrology, and natural systems. In 2000, the District completed the first update of the Charlotte Harbor SWIM Plan and expanded the Charlotte Harbor SWIM plan boundary to include Lemon Bay, and Dona and Roberts Bay matching the geographic boundary of the Coastal and Heartland National Estuary Partnership (CHNEP), formerly the Charlotte Harbor National Estuary Program. The most recent update to the CHNEP Comprehensive Conservation and Management Plan (CCMP) was released in 2019. This Charlotte Harbor SWIM Plan revision is complementary to the CHNEP CCMP as the two share a consistent focus on management actions, priorities, initiatives and quantifiable objectives in line with the District's areas of responsibility.

The SWIM Plan update was presented to the CHNEP Technical Advisory Committee (TAC), the District's Environmental Advisory Committee (EAC) as well as presented to the public through a workshop format and website. Members of the CHNEP TAC include representatives from the Florida Department of Environmental Protection (FDEP), Florida Department of Agriculture and Consumer Services (FDACS), Florida Fish and Wildlife Conservation Commission (FFWCC), regional planning councils and local governments within the Charlotte Harbor watershed. CHNEP TAC meetings, the District's EAC meetings and the public workshop are publicly noticed meetings and conform to applicable federal, state, and local sunshine/public access requirements. The CHNEP TAC, EAC, public workshop, and today's Governing Board meeting satisfy the public input requirements of 373.453 (3).

Pursuant to Section 373.453(3) District staff are requesting the Governing Board authorize submittal of the draft Charlotte Harbor SWIM Plan to the FDEP, FFWCC, FDACS and appropriate local governments for their review and comment within 45 days. At the end of the review period, District staff will consider the comments and incorporate them as appropriate. A final Charlotte Harbor SWIM Plan will be provided at a subsequent Governing Board meeting for final approval.

The draft Charlotte Harbor SWIM Plan is provided to the Governing Board members under separate cover.



Staff Recommendation:

Authorize staff to submit the draft Charlotte Harbor SWIM Plan to the agencies and appropriate local governments in accordance with Section 373.453, F.S.

**Submit & File Reports – None****Routine Reports**

*The following items are provided for the Committee's information, and no action is required.*

**30. Minimum Flows and Levels and Reservations Status Report****31. Significant Water Resource and Development Projects****OPERATIONS, LANDS & RESOURCE MONITORING COMMITTEE (TAB E)****Discussion****32. Consent Item(s) Moved for Discussion****33. 2020 Hurricane Preparedness**

Provide an overview of the District's emergency preparedness for the 2020 hurricane season. Discussion will include actions to prepare District infrastructure and staff for the upcoming hurricane season and detail the District's responsibilities as a member of the State's Emergency Response Team (SERT).

Water Management Districts are members of the SERT and serve as support agencies to the Department of Transportation and the Department of Environmental Protection during statewide emergency activations. Statewide communication and coordination is achieved through the State Emergency Operations Center. The District is a party to the Statewide Mutual Aid Agreement and the Florida Water Management Districts Mutual Aid Agreement for Catastrophic Emergency Response/Recovery. These agreements provide reciprocal emergency aid and assistance during an emergency.

The District has an updated (2018) Comprehensive Emergency Management Plan (CEMP), in line with Florida Statute, Chapter 252, Emergency Management. The CEMP outlines a comprehensive and effective program to ensure an effective response to a full range of potential emergencies, including major weather-based events such as hurricanes. In the event of a hurricane, or any other emergency that could potentially impact the District's 16-county area, the District's Emergency Operations Center is prepared for activation to monitor and respond.

Staff Recommendation:

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

**34. Hydrologic Conditions Report**

This routine report provides information on the general state of the District's hydrologic conditions, by comparing rainfall, surface water, and ground water levels for the current month to comparable dates from the historical record. May historically marks the last month of the eight-month dry season (October through May) and monthly rainfall totals were within the normal range in all three regions of the District.

- **Rainfall:** May totals were within the normal range in the northern and central regions, while at the upper end of the normal range in the southern region. The District-wide 12-month cumulative rainfall totals improved in May, ending the month at a deficit of only 0.28 inch below the long-term historical average. The rainfall deficit remains greatest in the southern counties at 3.59 inches below the mean.

- **Streamflow:** Monthly data indicates flow increased at seven monitoring stations, while it decreased at five, compared to last month. Ten stations ended the month within the “normal” range of historical values, while two were “above-normal.” Regional streamflow, based on three index rivers, was considered “normal” in all three regions of the District.
- **Groundwater:** Monthly aquifer level data indicates that regional levels declined in the northern and central regions of the District, while they increased in the southern region, compared to last month. The northern and central regions ended the month in the “normal” range, while the southern region was within the “above-normal” range.
- **Lake Levels:** Water level data indicates that regional lake levels declined in all four lake regions of the District, compared to last month. The Tampa Bay and Polk Uplands regions ended the month with levels within the “normal” range, while the northern and Lake Wales Ridge regions ended the month with “below-normal” levels.
- **Overall:** Below-average May rainfall resulted in declining hydrologic conditions in the northern counties. In the southern counties, mild to moderate drought conditions have shown significant improvement from increased rainfall in April and May, although a rainfall deficit continues there.

Staff Recommendation:

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

**Submit & File Reports – None**

**Routine Reports**

*The following items are provided for the Committee's information, and no action is required.*

- 35. **Significant Activities**
- 36. **Structure Operations**
- 37. **Surplus Lands Update**

<b>REGULATION COMMITTEE (TAB F)</b>
-------------------------------------

**Discussion**

- 38. **Consent Item(s) Moved for Discussion**

- 39. **Consider Water Shortage Order(s) as Necessary**

Staff continues to monitor water resource and supply conditions to determine if any actions would be prudent. Since Board-issued water shortage orders must be discussed in a noticed public meeting prior to implementation, this agenda item is included as a contingency provision. It allows the Governing Board to immediately consider any action that staff may recommend based on regional data to be reviewed on June 11, 2020.

Staff Recommendation:

Recommendations, if any, will be presented at the Governing Board meeting June 23, 2020 based on then-current conditions and predictions.

- 40. **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.

**Submit & File Reports – None**

**Routine Reports**

*The following items are provided for the Committee's information, and no action is required.*

- 41. **Individual Permits Issued by District Staff**
- 42. **Overpumpage Report**

<b>GENERAL COUNSEL'S REPORT (TAB G)</b>
-----------------------------------------

**Discussion**

- 43. **Consent Item(s) Moved for Discussion**

**Submit & File Reports – None**

**Routine Reports**

*The following items are provided for the Committee's information, and no action is required.*

- 44. **June 2020 Litigation Report**
- 45. **June 2020 Rulemaking Update**

<b>EXECUTIVE DIRECTOR'S REPORT (TAB H)</b>
--------------------------------------------

- 46. **Executive Director's Report**

<b>CHAIR'S REPORT (TAB I)</b>
-------------------------------

- 47. **Chair's Report**
- 48. **Employee Milestones**

<b>ADJOURN PUBLIC MEETING</b>
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**ADJOURNMENT**



## Governing Board Meeting

June 23, 2020

### CONVENE MEETING OF THE GOVERNING BOARD

#### PUBLIC MEETING

1. **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.

2. **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.

3. **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

4. **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: Mark Taylor, Chair



# Governing Board Meeting

## June 23, 2020

### 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.

#### ***Finance/Outreach & Planning Committee***

- 5. Resolution No. 20-06, Commending Randall S. Maggard for His Service as a Member of the Southwest Florida Water Management District Governing Board ..... 6
- 6. Independent Auditing Services Contract ..... 8
- 7. Governing Board Travel - Annual Environmental Permitting Summer School ..... 10
- 8. Knowledge Management – Comprehensive Fraud Governing Board Policy ..... 11
- 9. Budget Transfer Report ..... 18

#### ***Resource Management Committee***

- 10. FARMS – Bermont Properties, LLC – Section 34 (H784), Charlotte County ..... 20
- 11. Central Florida Water Initiative Water Conservation Cost Share Program ..... 22
- 12. Initiation and Approval of Rulemaking to Amend Rule 40D-8.623, Florida Administrative Code, to Remove Minimum Wetland Level for Cross Bar Q-25 (Stop #7) in Pasco County ..... 24

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

- 13. Knowledge Management: Sale, Exchange or Conveyance of Interests in Land by the District .. 27
- 14. Non – Exclusive Utility Easement to Tampa Electric Company (TECO) on the Brooker Creek Headwaters Nature Preserve for the Zambito Property – SWF Parcel No. 14 – 074 - 160X ..... 33
- 15. Non-Exclusive Perpetual Easement for Lake Arietta Access – SWF Parcel No. 10 - 201-115P. 56

#### ***Regulation Committee***

- 16. Individual Water Use Permits Referred to the Governing Board
  - a. WUP No. 20012159.002 / AgrotecHemp / AgrotecHemp Corporation (Marion County) ..... 62

#### ***General Counsel's Report***

- 17. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval
  - a. Approval of Consent Order Between SWFWMD and Farrell Homes, Inc. and Van Buren Land Holdings, Inc. – Violation of Permit Conditions for Construction – ERP No. 44033097.000 (EXPIRED) – CT No. 384019 – Pinellas County ..... 73
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  - c. Approval of Consent Order Between SWFWMD and Etcetera, Etc., Inc. – Operation Without a Permit – ERP No. 404221.01 – CT No. 380718 – DeSoto County ..... 98
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**FINANCE/OUTREACH & PLANNING COMMITTEE**

**June 23, 2020**

***Consent Agenda***

**Resolution No. 20-07, Commending Randall S. Maggard for His Service as a Member of the Southwest Florida Water Management District Governing Board**

To honor Mr. Randall S. Maggard for his term as a Governing Board member, District staff has prepared this resolution to commemorate his service. Mr. Maggard was appointed by Governor Rick Scott in October 2011 and served until July 2019.

**Staff Recommendation:**

Approve Resolution No. 20-07, Commending Randall S. Maggard for His Service as a Member of the Southwest Florida Water Management District Governing Board

**Presenter:** Virginia Singer, Board & Executive Services Manager

RESOLUTION NO. 20-07

COMMENDING  
**RANDALL S. MAGGARD**  
FOR HIS SERVICE AS A MEMBER OF THE  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT GOVERNING BOARD

WHEREAS, **RANDALL S. MAGGARD** was appointed by Governor Rick Scott to the Southwest Florida Water Management District Governing Board on October 19, 2011 and served through July 19, 2019; and

WHEREAS, **RANDALL S. MAGGARD** was elected and served as the Board's Secretary from May 2013 through May 2014, the Board's Vice Chair from June 2014 through June 2016 and the Board's Chair from June 2016 through June 2017; and

WHEREAS, **RANDALL S. MAGGARD** provided leadership and guidance in the development of the Polk Regional Water Cooperative, Central Florida Water Initiative, including development of the Regional Water Supply Plan and Water Resources Protection and Water Supply Strategies Plan; and

WHEREAS, **RANDALL S. MAGGARD** supported development of alternative water supplies and regional pipeline interconnections in partnership with water supply authorities, local governments and private utilities to help achieve reductions in groundwater pumping and supported regional cooperative projects including; the Pasco County 4-G Reclaimed Water Wetlands Recharge Project, Expansion & Interconnection of Pasco County's Reuse System, and the Hernando County US19 Reclaimed Water Project; and

WHEREAS, **RANDALL S. MAGGARD** completed the implementation of the Southern Water Use Caution Area (SWUCA) recovery strategy projects including the Lake Hancock Lake Level Modification project; and

WHEREAS, **RANDALL S. MAGGARD** continued to meet needs in the Southern Water Use Caution Area, while reducing groundwater use, improving river flows and aquifer levels, and examining alternatives to restore lake levels in the Ridge area; and

WHEREAS, **RANDALL S. MAGGARD** was an advocate of environmental restoration projects, many of which received national acclaim during his tenure including the MacDill Air Force Base Restoration, Cockroach Bay Restoration, Clam Bayou Restoration and Stormwater Treatment and Rock Ponds Ecosystem Restoration projects; and

WHEREAS, **RANDALL S. MAGGARD** supported the acquisition of public lands to protect Florida's first- and second-magnitude springs, including Weeki Wachee, Kings Bay, Three Sisters, Boat Springs and Rainbow Springs; and

WHEREAS, **RANDALL S. MAGGARD** stressed the importance of flood protection and public safety by supporting technological upgrades and refurbishments to the District's complex flood and water control structures throughout the region as well as funding to improve Duck Slough and Timber Oaks in Pasco County; and

WHEREAS, **RANDALL S. MAGGARD** supported a collaborative approach to develop joint SWIM Plans with key stakeholders for all five first-magnitude springs in the Springs Coast area, and began funding septic-to-sewer projects in these springsheds; and

WHEREAS, **RANDALL S. MAGGARD** championed the surplus lands program through the sale of less beneficial District parcels equaling 1,665 acres for a total of \$8.6 million, funds were then available to make critical land purchases; and

WHEREAS, **RANDALL S. MAGGARD** was a visionary leader in beneficial reuse of reclaimed water, setting a goal of 75 percent beneficial reuse, creating innovative approaches using reclaimed water to restore natural systems and help create a sustainable water supply; and

WHEREAS, **RANDALL S. MAGGARD** continued the District's commitment to putting tax dollars to work by investing more than 58 percent of its budget to Cooperative Funding and District projects during his tenure; and

WHEREAS, **RANDALL S. MAGGARD**, as a member and Chair of the Governing Board, demonstrated exceptional skill, leadership, and discipline in championing fiscal responsibility and efficient business processes thereby reducing tax millage rates by more than 46 percent and ensuring the District's operating budget was in line with ad valorem revenue levels since Fiscal Year 2011; and

WHEREAS, the Governing Board of the Southwest Florida Water Management District wishes to express its appreciation of these outstanding contributions, as well as those that are not mentioned but which will long be attributed to the service of **RANDALL S. MAGGARD**.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT that this Board honors **RANDALL S. MAGGARD** by adopting this resolution, expressing its appreciation for his commitment to the mission of the District, his outstanding work and his dedication to public service; and

BE IT FURTHER RESOLVED that this resolution be incorporated into the minutes of this District, permanently honoring the service of **RANDALL S. MAGGARD** to this District, and that this resolution be presented to him.

PASSED and ADOPTED this twenty-third day of June 2020.

GOVERNING BOARD OF THE  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

BY \_\_\_\_\_  
Mark Taylor, Chair

ATTEST \_\_\_\_\_  
Joel Schleicher, Secretary

Attachment: Resolution - R Maggard 8.5 x 11 (5112 : Resolution No. 20-07, Commending Randall S. Maggard for His Service)

**FINANCE/OUTREACH & PLANNING COMMITTEE****June 23, 2020****Consent Agenda****Independent Auditing Services Contract***Purpose*

Exercise the renewal option within the current contract and approve the second amendment to the agreement engaging James Moore & Co., P.L.(JMCO) to perform the fiscal year 2019-20 auditing services.

*Background*

On July 25, 2017, the Governing Board approved the hiring of JMCO, Certified Public Accountants, to perform the annual audit of the District's financial statements and the necessary federal and state single audits as a result of the District's bid. The contract was awarded to JMCO for one-year, with four one-year renewals in accordance with the provisions of the bid. This renewal represents the third one-year renewal.

In accordance with terms of the contract, JMCO has requested an increase in compensation of 2.3 percent which equates to an approximate increase of \$2,049 depending on how many single audits are required.

Services	FY2020	FY2019	Increase
Basic Financial Statements	\$85,928	\$83,996	\$1,932
Each Federal Single Audit	3,106	3,036	70
Each State Single Audit	2,071	2,024	47
Total	\$91,105	\$89,056	\$2,049

Actual costs for the previous audits included under this contract is as follows:

Services	FY2019	FY2018	FY2017
Basic Financial Statements	\$83,996	\$83,000	\$83,000
Federal Single Audits, FY2017 base rate \$3,000 each	0	0	0
State Single Audits, FY2017 base rate \$2,000 each	2,024	2,000	4,000
Total	\$86,020	\$85,000	\$87,000

Apart from the slight increase in fees, there are no significant changes to the contract other than the time requirements, reflecting that the audit is for the fiscal year 2019-20 financial audit.

## Item 6

Staff Recommendation:

- (1) Exercise the renewal option within the current contract and approve the third amendment to the agreement engaging JMCO to perform the fiscal year 2019-20 auditing services; and
- (2) Authorize the Executive Director to execute the third amendment to the current contract with JMCO to perform the fiscal year 2019-20 auditing services.

Presenter: Melisa J. Lowe, Bureau Chief, Finance

## FINANCE/OUTREACH & PLANNING COMMITTEE

June 23, 2020

### ***Consent Agenda***

#### **Governing Board Travel - Annual Environmental Permitting Summer School**

District policy states that in accordance with Chapters 112 and 373, Florida Statutes, travel expenses may be incurred for official District business or for a public purpose beneficial to the District. Travel to any conference or convention requires prior approval.

Within the geographic boundaries of the District, Governing Board members may incur travel expenses to attend Governing Board meetings or for other purposes beneficial to the District, excluding conferences and conventions. Scheduled travel for Governing Board members outside the District or to attend conferences or conventions requires prior approval through the consent agenda of a regular monthly Governing Board meeting. Non-scheduled travel outside the District or to attend any conference or convention requires prior approval of the Governing Board Chair, or in his absence, the Vice Chair.

<b>34<sup>th</sup> Annual Environmental Permitting School Marco Island July 20 - July 24, 2020 <i>These are approximate costs</i></b>				
<b>Name</b>	<b>Registration</b>	<b>Lodging \$185/Night</b>	<b>Mileage Cost</b>	<b>Meals</b>
Kelly Rice	\$600 (Early Registration)	\$555	\$205	\$79
James Murphy	\$725 (Attending Early Bird)	\$740	\$175	\$104
Mark Taylor	\$650	\$555	\$200	\$79

#### **Staff Recommendation:**

Approve Governing Board travel as presented.

Presenter: Virginia Singer, Board and Executive Services Manager

## FINANCE/OUTREACH & PLANNING COMMITTEE

June 23, 2020

### *Consent Agenda*

#### **Knowledge Management - Comprehensive Fraud Governing Board Policy**

##### *Purpose*

As part of the District's Knowledge Management initiative, all the District's Governing Board Policies are being reviewed by the respective divisions.

##### *Background/History*

The District's Knowledge Management initiative was launched in FY2016 and is now a Core Business Process in the District's Strategic Plan. Knowledge Management is the practice of systematically and actively collecting, managing, sharing and leveraging the organization's data, information and processes. The focus since FY2018 has been on improving the organization of governing documents to facilitate knowledge sharing, ensure the alignment of division and bureau practices with Governing Board Policies and Executive Director Procedures, and allow for timely retrieval and review of existing governing documents.

Staff performed a review of the Comprehensive Fraud Governing Board Policy. Staff is proposing to change the document owner to the executive director, add the Office of Inspector General's fraud hotline number, add a method for anonymous reporting to the Office of General Counsel, add confidentiality exceptions for a Whistle-Blower in accordance with Florida Statutes, and other minor revisions. This item was brought to the Governing Board on May 19, 2020 and no further revisions were made.

##### *Benefits*

Updating existing Governing Board Policies increases efficiencies and ensures organizational alignment.

##### **Staff Recommendation:**

Staff recommends the Board approve the Comprehensive Fraud Governing Board Policy as revised.

**Presenter:** Brian Werthmiller, Inspector General

# DRAFT

## GOVERNING BOARD POLICY

Southwest Florida Water Management District

**Title: Comprehensive Fraud**

**Document Owner:** Brian Armstrong, Executive Director

**Approved By:** Mark Taylor; Chair

**Effective Date:** MM/DD/YYYY

**Supersedes:** 04/30/2013

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### PURPOSE

The Governing Board of the Southwest Florida Water Management District (District) is committed to the highest standards of moral and ethical behavior. Breaches of these standards, especially through acts involving fraudulent, unethical and other dishonest behavior, are not only costly, but erode the public's trust and confidence in the integrity of the institution. By issuing this formal policy statement, the Governing Board hereby reaffirms a longstanding directive to aggressively combat such behavior.

This policy is intended to:

1. Communicate the prohibition of fraudulent, unethical and other dishonest activities.
2. Institute preventive measures designed to deter these activities or make them easier to detect and stop.
3. Ensure an annual fraud risk assessment.
4. Provide for the reporting and investigation of such, including providing protection to persons who report the inappropriate activities.

### SCOPE

This policy applies to any situation of fraud or suspected fraud involving District employees, vendors, contractors, consultants, outside agencies, and/or any other parties with a business relationship with District or its personnel.

## **GOVERNING BOARD POLICY**

**Title: Comprehensive Fraud**

**Effective Date: MM/DD/YYYY**

**Page 2 of 6**

### **AUTHORITY**

Sections 112.3187-31895, Florida Statutes (F.S.)

### **DEFINITIONS**

Fraud generally involves a willful or deliberate act or omission with the intention of obtaining an unauthorized benefit, service, property or something of value by deception, misrepresentation or other unethical or unlawful means. Fraud can be committed through many methods, including but not limited to mail, telecommunications, computer and the Internet.

Fraudulent, unethical and other dishonest acts may include, but are not limited to:

1. Forgery or unauthorized alteration of documents or computer records.
2. Falsification or misrepresentation of reports to management and external agencies, including records and data submitted to, produced or maintained by the District.
3. Authorizing or receiving payment for time not worked.
4. Submission of fraudulent claims.
5. Misappropriation of funds, securities, equipment, supplies or other assets.
6. Impropropriety in handling or reporting of money or financial transactions.
7. Engaging in activities that result in a conflict of interest.
8. Disclosing confidential or proprietary information to unauthorized individuals.
9. Unauthorized use or destruction of District property, records or other District assets.
10. Taking, using or providing to others the accounts, access numbers, passwords or any other identifying information of another person without authorization for the purpose of assuming that person's name or identity or to make transactions or purchases (identity theft).
11. The unauthorized use of District property and resources for personal activities.

### **STANDARDS**

N/A

### **POLICY**

#### **Responsibility for Detection, Prevention and Monitoring**

District senior management is responsible for establishing and maintaining proper internal controls that provide security and accountability of District resources. District managers and supervisors are responsible for ensuring compliance with policies, administrative directives, laws, and regulations. Employees at all levels are expected to take personal responsibility for compliance with laws, rules and regulations and for taking steps to avoid noncompliance. Employees are also responsible for the security and accountability of the resources entrusted to them and for abiding by the policies and procedures set in place by the District.

Controls include, but are not limited to, ensuring that:

1. Incompatible duties are properly separated.
2. Financial transactions are properly authorized and approved.
3. Reports of financial activity are periodically reviewed for completeness and accuracy.
4. Official personnel actions (ex: appointments, terminations, promotions) and employee time and leave is properly authorized and approved.
5. Real and tangible assets are properly inventoried and physically secured.
6. Computer and account passwords are protected and not shared.



## **GOVERNING BOARD POLICY**

**Title: Comprehensive Fraud**

**Effective Date: MM/DD/YYYY**

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7. Intangible assets and data, including confidential and sensitive information, are protected from unauthorized access.
8. Employees are effectively supervised.

Employees at all levels shall be aware of the risks and exposures inherent in their area of responsibility, take appropriate steps to help mitigate those risks and be aware of the related symptoms of fraudulent, unethical and other dishonest actions. The inspector general shall include a fraud risk assessment as part of the periodic enterprise risk assessments performed by the office as a component of the office's annual audit work plan.

### **Responsibility for Reporting**

All employees shall be alert to possibilities of fraud and for any indication that unethical or dishonest activity is taking place. Any employee who has a reasonable basis for believing that a fraudulent act has occurred or is occurring has a duty to immediately report this information.

1. All incidents can be reported, orally or in writing, to the District's Office of Inspector General or anonymously through the District Office of Inspector General fraud hotline at (352) 754-3482.
2. Single incidents of theft or robbery or other related property loss or damage of property shall be reported, orally or in writing, to the District's risk manager, or inspector general, or anonymously to the District's Office of Inspector General fraud hotline. The risk manager shall send a monthly status report relating to these single incident activities to the inspector general.
3. Incidents involving the District's Office of Inspector General staff shall be reported to the District's general counsel. In addition, reporting can be anonymous through a letter to the District's general counsel.

The employee shall not confront the accused individual(s) or discuss the matter with anyone other than the person or office to whom the activity was reported.

Employees who make allegations they know to be false may be subject to disciplinary action up to and including dismissal. However, allegations that are investigated and deemed unsubstantiated are not necessarily indicative of false allegations.

On occasion, individual Board members will receive anonymous information regarding the District. All anonymous information received by any Board member is to be forwarded to the District's Office of Inspector General. If the information involves the District's Office of Inspector General personnel, then the information shall be forwarded to the District's general counsel.

### **Retaliation Prohibited**

An employee who, in good faith, reports wrongful activity in a written and signed complaint to the inspector general or general counsel meeting the provisions of the Whistle-Blower's Act Executive Director Procedure and/or Section 112.3187, F.S. (Whistle-blower's Act), is protected against retaliation for making such a report. The Whistle-blower's Act provides for the individual's identity to remain confidential while the investigation is active unless the disclosure of the individual's identity is necessary to prevent a substantial and specific danger to the public's health, safety, or

## **GOVERNING BOARD POLICY**

**Title: Comprehensive Fraud**

**Effective Date: MM/DD/YYYY**

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welfare, or to prevent the imminent commission of a crime, or the disclosure is unavoidable and absolutely necessary during the course of the audit, evaluation, or investigation. Regardless whether or not the provisions of the Whistle-blower's Act are met, it is a violation of this policy for anyone to retaliate against another for reporting, in good faith, allegations of wrongdoing or participating in the investigation of such.

With the exception of making allegations known to be false, disclosing information under this policy will not be the basis for adverse or retaliatory actions, including:

1. Dismissal or threat of dismissal.
2. Discipline, suspension, or threat of discipline or suspension.
3. Demotion.
4. Reduction in salary or benefits, withholding of bonuses.
5. Intimidation or coercion.

### **Responsibility for Investigation**

With the exception of information involving the District's Office of Inspector General personnel, the District's Office of Inspector General is responsible for receiving and investigating disclosures of suspected fraud and whistle-blower information.

### **Investigation**

Upon reviewing allegations of fraudulent, unethical or dishonest acts, if the District's inspector general (or when applicable the District's general counsel) determines an investigation is warranted, the investigation shall be completed expeditiously and in accordance with established procedures (Executive Director Procedure 14-2). The results of the investigation shall be communicated to the appropriate levels of management within the organization or to external authorities as deemed necessary.

During the investigation, the investigator(s) will adhere to appropriate procedures and safeguard the administrative rights of accused district employees. If the accused district employee is named in the report, the accused will be afforded the opportunity to respond to the allegations or matters being investigated.

All employees are to cooperate fully with those performing an investigation pursuant to this policy. An employee who does not fully cooperate with an authorized investigation may be disciplined, up to and including termination of employment. An employee may be required to answer any question that is within the scope of the employee's employment. The District's Inspector General does not have the authority to take disciplinary action against an employee.

### **Consequences for Fraudulent Behavior**

Employee(s) determined to have participated in fraudulent, unethical or dishonest acts will be subject to disciplinary action in accordance with any District personnel procedures and guidelines. Such determination will be made in accordance with procedures and guidelines established by the executive director.

## **GOVERNING BOARD POLICY**

**Title: Comprehensive Fraud**

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Criminal, civil and/or other administrative actions may also be taken against employees who are found to have participated in unlawful acts. Criminal action falls within the sole purview of local, state or federal law enforcement, prosecuting and judicial authorities.

Regardless of their classification, any employee who fails to report fraudulent activity as required by this policy is subject to disciplinary action.

### **Policy Dissemination and Employee Training**

The executive director is responsible for ensuring all District employees are informed and trained on this policy including the posting of contact information. Associated costs related to an anonymous fraud hotline shall be budgeted within the Office of Inspector General.

### **DISTRIBUTION**

This Policy will be stored in the Governing Document Repository.

### **REFERENCES**

Sections 112.3187-31895, Florida Statutes (Whistle Blower's Act)  
Executive Director Procedure 14-2, Whistle-Blower's Act

### **REVIEW PERIOD**

This Policy will be reviewed every 2 years.

## GOVERNING BOARD POLICY

Title: Comprehensive Fraud

Effective Date: MM/DD/YYYY

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### DOCUMENT DETAILS

Document Name	Comprehensive Fraud
Formerly Known As	N/A
Document Type	Policy
Author(s)	Brian Armstrong
Reviewing Stakeholder(s)	Senior Staff
Document Owner Name	Brian Armstrong
Document Owner Title	Executive Director
Review Period (in days)	730
Span of Control	Governing Board
Supersedes Date	04/30/2013
Effective Date	

### APPROVAL

\_\_\_\_\_  
Insert Governing Board Chair's Name  
Chair

\_\_\_\_\_  
Date

## FINANCE/OUTREACH & PLANNING COMMITTEE

June 23, 2020

### *Consent Agenda*

#### **Budget Transfer Report**

##### *Purpose*

Request approval of the Budget Transfer Report covering all budget transfers made during the month of May 2020.

##### *Background*

In accordance with Board Policy, *Budget Authority Transfer of Funds*, all transfers approved by the Executive Director and Finance Bureau Chief under delegated authority are regularly presented to the Finance/Outreach & Planning Committee for approval on the Consent Agenda at the next scheduled meeting. The exhibit for this item reflects all such transfers executed since the date of the last report for the Committee's approval.

##### Staff Recommendation:

Request approval of the Budget Transfer Report covering all budget transfers for May 2020.

Presenter: Melisa J. Lowe, Bureau Chief, Finance

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

--- TRANSFERRED FROM ---		--- TRANSFERRED TO ---		Reason For Transfer	Transfer Amount	
Item No.	Bureau / Expenditure Category	Bureau / Expenditure Category				
<b><u>Change from Original Budget Intent</u></b>						
1	Natural Systems & Restoration Consultant Services	Office of General Counsel Consultant Services	Transfer of funds originally budgeted for Tampa Bay Habitat Regional Coordination which provides funds for general support to habitat restoration efforts for Tampa Bay. Coordination efforts requiring consultant services are projected to be less than anticipated. The funds are needed to hire a consultant to assist with ensuring bid, contract, and project documents for those receiving federal Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies (RESTORE) Act funds are in compliance. The frequency in which the District receives federal grants does not warrant a qualified full-time equivalent.	\$	10,000.00	
2	Communications and Board Services Travel - Training Parts and Supplies Equipment - Non-Capital Outlay	Communications and Board Services Equipment - Outside	Transfer of funds originally budgeted for travel for training, parts and supplies, and equipment under \$1,000 in support of Communications and Board Services. Expenditures are less than anticipated for items supporting the District's Multimedia Journalist, as well as travel for the Communications Section due to the cancellation of some events as a result of COVID-19. The funds are needed for a replacement video camera used by the Multimedia Journalist. The current video camera has reached its useful life.		4,000.00	
3	General Services Parts and Supplies	General Services Equipment - Outside	Transfer of funds originally budgeted for parts and supplies associated with the maintenance of the District's fleet. Expenditures are projected to be less than anticipated. The funds are needed for the purchase of a pressure washer to be used with the new wash rack at the Tampa Office for proper maintenance of District fleet.		1,159.00	
Total Change from Original Budget Intent					<u>\$</u>	<u>15,159.00</u>
<b><u>Consistent with Original Budget Intent</u></b>						
1	Operations & Land Management Other Contractual Services	Operations & Land Management Parts and Supplies	Funds are needed for the original purpose budgeted to contract the addition of remote operation to the pump station cell gates at the Lake Hancock Outfall Treatment. The funds are being transferred to the appropriate expenditure category since the Structures Operations staff can complete some of the remote operation installation in-house.	\$	50,000.00	
Total Consistent with Original Budget Intent					<u>\$</u>	<u>50,000.00</u>
Total Transfers for Governing Board Ratification					<u>\$</u>	<u>65,159.00</u>

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 for Governing Board ratification on the Consent Agenda. This Board Policy limits transfers made for a purpose other than the original budget intent to \$50,000. However, transfers made for accounting reallocation purposes consistent with original budget intent are not limited.

**Attachment: 06-20 FOP-FIN Exhibit-BT Rpt MAY2020 (5113 : Budget Transfer Report)**

**RESOURCE MANAGEMENT COMMITTEE****June 23, 2020*****Consent Agenda*****FARMS – Bermont Properties, LLC – Section 34 (H784), Charlotte County*****Purpose***

To request approval for a Facilitating Agricultural Resource Management Systems (FARMS) project with Bermont Properties, LLC and approval to reimburse FARMS eligible costs up to a not-to-exceed limit of \$166,500 (75 percent of total project costs). Of this amount, \$166,500 is requested from the Governing Board FARMS Fund. Total project costs are estimated at \$222,000.

***Project Proposal***

The District received a project proposal from Bermont Properties, LLC for their 1,500-acre citrus grove operation located 16 miles east of Punta Gorda, in eastern Charlotte County, within the Southern Water Use Caution Area (SWUCA) and Shell, Prairie, and Joshua Creek watersheds (SPJC). This project will involve the installation of a weather station to optimize irrigation scheduling and the installation and operation of a pumping station to utilize surface water collected from the surrounding watershed by an existing tailwater ditch system to offset Upper Floridan aquifer groundwater used for supplemental irrigation of 1,500 acres of citrus. The Water Use Permit (WUP) is issued to the East Charlotte Drainage District (ECDD) and authorizes an annual average withdrawal of 2,767,100 gallons per day (gpd) to irrigate 2,767 acres of citrus consisting of multiple grove property owners including Bermont Properties. Project components consist of one weather station, one surface water irrigation pump station, filtration system, valves, and the piping necessary to connect the existing irrigation system.

***Benefits/Costs***

The proposed project involves water quantity and water quality best management practices for supplemental irrigation and qualifies for a 75 percent cost-share reimbursement rate under the FARMS Program. Using an estimated two percent savings of permitted quantities for daily irrigation, or 50,000 gpd, yields a daily cost of \$2.65 per thousand gallons of groundwater reduced over the proposed five-year contract term. This value is within the guidelines for the generally accepted average cost savings per thousand gallons for the implementation of alternative supplies and improved irrigation techniques for citrus grove operations. Reimbursement will be from the Governing Board FARMS Fund. Upon approval of this project, the Governing Board will have \$5,021,021 remaining in its FARMS Program budget.

**Staff Recommendation:**

- 1) Approve the Bermont Properties, LLC - Section 34 project for a not-to-exceed project reimbursement of \$ 166,500 with \$ 166,500 provided by the Governing Board;
- 2) Authorize the transfer of \$ 166,500 from fund 010 H017 Governing Board FARMS Fund to the H784 Bermont Properties, LLC - Section 34 project fund;
- 3) Authorize the Assistant Executive Director to sign the agreement.

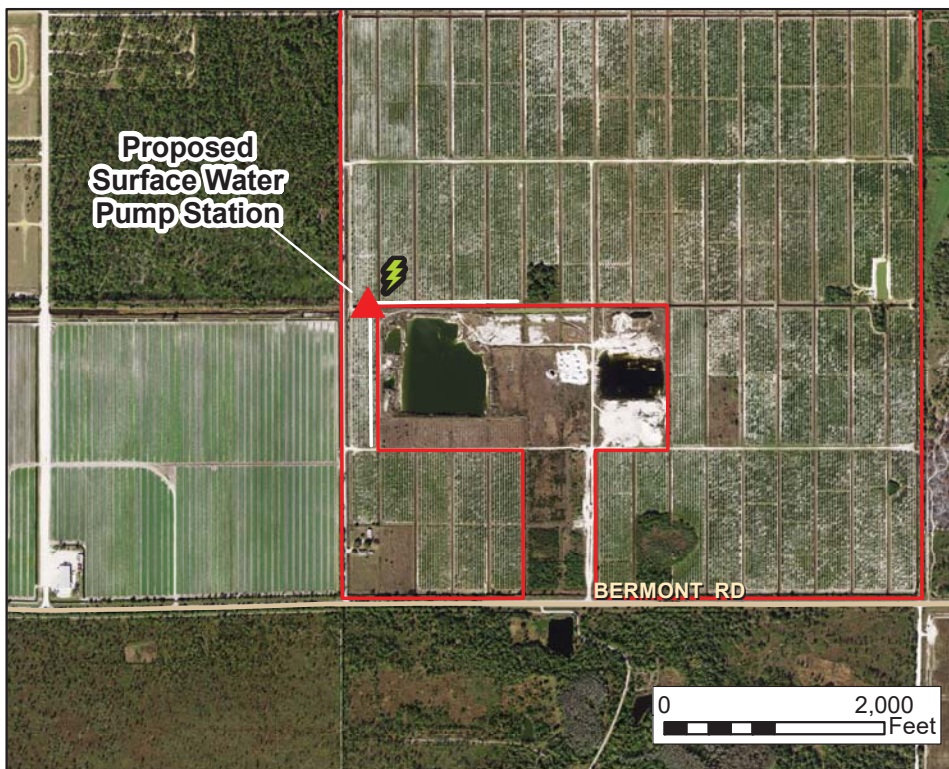
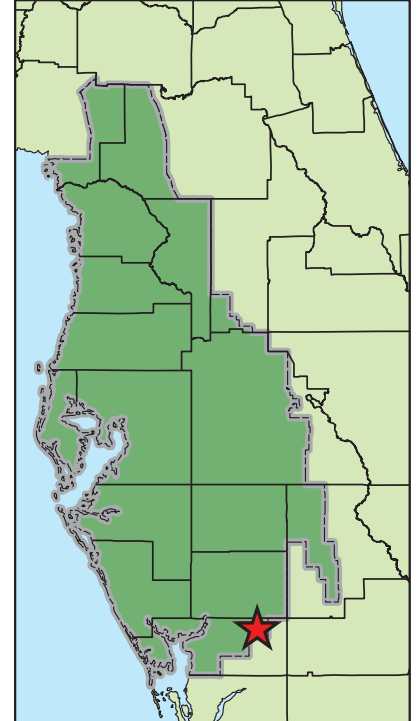
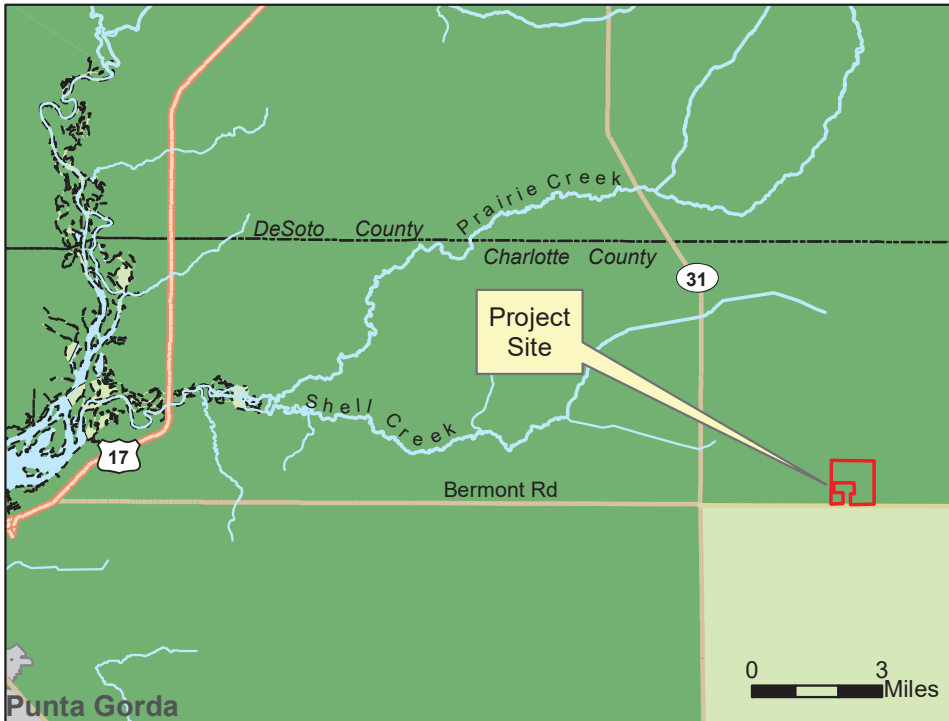
**Presenter:** Randy Smith, Bureau Chief, Natural Systems and Restoration



# Location Map

## Bermont Properties, LLC - Section 34

### FARMS Project H784



**Legend**

- District Boundary
- Project Boundary
- Proposed Surface Water Pump Station and Mainline Pipe
- Proposed Weather Station

**Charlotte County**

Southwest Florida  
Water Management District

DLB May 2020  
2017 Aerial  
2012 NAVTEQ



## RESOURCE MANAGEMENT COMMITTEE

June 23, 2020

### *Consent Agenda*

#### **Central Florida Water Initiative Water Conservation Cost Share Program**

##### *Purpose*

To provide the Board an overview of the CFWI Water Conservation cost share program, to request Board approval of two selected projects, and request a budget transfer of \$151,758 from the Water Supply and Water Resource Development Grant Program (WSWRDGP) funded by state appropriation for projects approved by the Florida Department of Environmental Protection (FDEP).

##### *Background*

The FY2020 adopted budget included \$3,000,000 in state funds appropriated by the 2019 Florida Legislature for the establishment of a water supply and water resource development grant program to develop and implement conservation, reuse and other water supply and water resource development projects. At the November 2019 Governing Board, a budget transfer from the \$3,000,000 was approved in the amount of \$2,674,000 for three projects selected by the FDEP, leaving a balance of \$326,000.

In January, FDEP collaborated with the South Florida, St. Johns River, and Southwest Florida Water Management Districts (WMD) to develop a funding program that would solicit conservation projects within the CFWI to utilize state appropriation funds for water supply and water resource development that became available from a canceled project in the South Florida WMD. Staff from each of the three districts collaborated on guideline and application development for the CFWI Water Conservation cost share program. On February 17<sup>th</sup>, the application period opened, and on March 27<sup>th</sup> the application period closed.

An internal review team with staff from each district and FDEP reviewed 10 project applications. Five projects were ultimately recommended for funding. The projects were presented to the CFWI Steering Committee on May 29<sup>th</sup> and approved for funding. The projects also require approval by the respective Governing Boards of each district.

##### *Discussion*

Two of the five projects selected by the CFWI Steering Committee are within the Southwest Florida Water Management District. The requested funding amount for the two projects is \$151,758 and they will conserve approximately 49,500 gallons per day (gpd).

The first project, High Efficiency Toilet (HET) and Irrigation Controller Rebates (P927), was submitted by the Polk Regional Water Cooperative (PRWC). This project had also been submitted to the District for FY2021 cooperative funding. The project includes toilet and urinal rebates, irrigation evaluations, enhanced conservation kits, and smart irrigation controllers. The project also includes program promotion, public outreach, and administrative costs. The anticipated water savings for this project is approximately 23,300 gpd. The total cost for this project is \$168,715 with \$84,358 coming from the state appropriation and \$84,357 from the PRWC. The project's cost effectiveness is \$2.63 per thousand gallons saved, which is within the high range for cooperative funding projects.

## Item 11

At the May 19<sup>th</sup> Governing Board meeting, the Board approved this project through the District's Cooperative Funding Initiative process as PRWC - Demand Management Implementation (Q187). The project was proposed to be funded with \$84,355 in ad valorem dollars as the District's share. With Board approval to utilize state appropriation dollars for project P927, project Q187 will be removed as part of the July FY2021 Budget Update.

The second project, Ag Irrigation System Improvements (P928), was submitted by Ray Bob Grove, Inc. It includes the purchase and installation of hydraulic control valves to reconfigure irrigation zones within the citrus grove. The anticipated water savings is approximately 26,200 gpd. The total cost for this project is \$171,808 with \$67,400 coming from the state appropriation (remaining funds available) and \$104,408 from Ray Bob Grove, Inc. The project's cost effectiveness is \$1.19 per thousand gallons of groundwater reduced, which is within the range established for similar projects.

### Staff Recommendation:

1. Approve the two selected projects within the District's boundaries.
2. Approve a budget transfer of \$151,758 in state appropriations from Water Supply and Resource Development Grant Program (H103) to:
  - PRWC - HET and Irrigation Controller Rebates (P927) in the amount of \$84,358; and
  - Ray Bob Grove - Ag Irrigation System Improvements (P928) in the amount of \$67,400.
3. Approve the removal of \$84,355 currently in the FY2021 proposed budget for the PRWC - Demand Management Implementation project (Q187).

Presenter: Jay Hoecker, PMP, Water Supply Manager, Water Resources Bureau

## RESOURCE MANAGEMENT COMMITTEE

June 23, 2020

### *Consent Agenda*

#### **Initiation and Approval of Rulemaking to Amend Rule 40D-8.623, Florida Administrative Code, to Remove Minimum Wetland Level for Cross Bar Q-25 (Stop #7) in Pasco County**

##### *Purpose*

To request the Board initiate rulemaking and approve proposed rule language to amend Rule 40D-8.623, Florida Administrative Code (F.A.C.), to remove the minimum wetland level for Cross Bar Q-25 (Stop #7), and accept the report entitled: "Revised Minimum Levels Based on Reevaluation of Levels Adopted for 41 Southwest Florida Water Management District Wetlands" dated April 14, 2020.

##### *Background/History*

Minimum levels are water levels at which further withdrawals would be significantly harmful to the water resources of the area. A minimum level for the Cross Bar Q-25 (Stop #7) wetland was adopted into Rule 40D-8.623, F.A.C., in 2000. Section 373.0421(3), Florida Statutes, requires that minimum flows and levels shall be reevaluated periodically and revised as needed.

In 2000, 41 wetland Minimum Levels were adopted in Rule 40D-8.623, 40 of which were reevaluated in 2019. The Governing Board approved changes to this rule provision, based upon the reevaluation of these wetlands, in November 2019, and the corresponding rule amendments became effective in April 2020. These amendments included revised levels for 19 wetlands, removal of minimum levels for 7 wetlands, and adoption of minimum levels for 2 new wetlands. Cross Bar Q-25 (Stop #7) was the one remaining wetland of the original 41 for which re-evaluation needed to be completed. Consistent with prior wetland minimum level reevaluations, this reevaluation was completed using peer-reviewed methodologies, as well as up-to-date hydrologic, biologic, and survey data. The updated data resulted in the recommendation to remove the minimum level for Cross Bar Q-24 (Stop #7) from Rule 40D-8.623, F.A.C.

This wetland is proposed to be removed from the rule for technical and scientific reasons. During reevaluation, it was determined that this site does not qualify for assessment using the peer-reviewed method for setting wetland minimum levels, because it does not have a reliable, reproducible Historic Normal Pool. The area has other remaining environmental protection in place with the two nearby established wetland minimum levels along with other monitored wetlands and lakes.

The District held a public workshop on September 18, 2019, at the District's Tampa Service Office to explain proposed minimum level reevaluations for the established wetlands within the District and to seek public input. As a result of feedback, and to be responsive to stakeholders' input, the District completed additional analyses for the Cross Bar Q-25 (Stop #7) wetland which resulted in this recommendation to remove the minimum level for this wetland. A summary of the public workshop, including comments and discussion, is available upon request. The results of the additional analyses were both emailed to the original workshop attendees and updated in the associated technical report entitled "Revised Minimum Levels Based on Reevaluation of

## Item 12

Levels Adopted for 41 Southwest Florida Water Management District Wetlands”, which was posted on the District’s website on April 14, 2020.

### *Benefits/Costs*

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

The proposed rule language removing the minimum level for the Cross Bar Q-25 (Stop #7) wetland is attached as an exhibit to this recap. Upon Governing Board approval of the proposed rule amendment, staff will submit a notice to the Governor’s Office of Fiscal Accountability and Regulatory Reform (OFARR) and proceed with formal rulemaking without further Governing Board action. If substantive changes are necessary as the result of comments received from the public or from reviewing entities such as OFARR or the Joint Administrative Procedures Committee, this matter will be brought back to the Governing Board for consideration.

### Staff Recommendation:

- A. Accept the report entitled, “Revised Minimum Levels Based on Reevaluation of Levels Adopted for 41 Southwest Florida Water Management District Wetlands.”
- B. Authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process and to complete report finalization.
- C. Initiate rulemaking and approve the proposed rule language to amend Rule 40D-8.623, F.A.C., to remove the Cross Bar Q-25 (Stop #7) minimum level, as shown in the Exhibit.

Presenter: Donna Campbell, Staff Environmental Scientist, Water Resources Bureau

## EXHIBIT

### 40D-8.623 Minimum Wetland Levels.

(1) through (2) No change.

(3) Minimum Wetland Levels are hereby established as set forth in the following table. Wetland water levels are deemed to be below the Minimum Wetland Level when the Long-term Current P50 is below the Minimum Wetland Level. If insufficient data exists to determine if a wetland is below its Minimum Wetland Level, the wetland can be determined to be below the Minimum Wetland Level based on a comparison with wetlands that are hydrologically or hydrogeologically similar or, located in close proximity or, in the same drainage basin or, by use of aerial photographs or evaluation of hydrologic data or Hydrologic Indicators in the subject wetland.

TABLE 8-1 ~~Adopted Minimum Wetland Levels~~ ~~Minimum Wetland Levels Adopted August 7, 2000~~

Wetland Site	Minimum Level (feet NGVD)	Latitude	Longitude
(a) through (z) no change			
<del>(aa) Cross Bar Q-25 (Stop #7)</del>	<del>72.3</del>	<del>28 20 37</del>	<del>82 28 28</del>
<del>(aabb) Cross Bar Q-1</del>	72.5	28 20 46	82 28 11
<del>(bbee) Cone Ranch 1</del>	86.9	28 07 57	82 07 16
<del>(ccdd) Cone Ranch 2</del>	90.5	28 07 14	82 07 11
<del>(ddee) Cone Ranch 3</del>	95.4	28 06 39	82 07 14
<del>(eeff) Cone Ranch 4</del>	99.0	28 06 50	82 05 54
<del>(ffgg) Cone Ranch 5</del>	105.2	28 05 53	82 04 56
<del>(gghh) Cone Ranch 6</del>	96.0	28 07 32	82 05 57
<del>(hhii) North Pasco 3</del>	44.4	28 19 00	82 34 32
<del>(iiij) North Pasco 21</del>	44.5	28 17 23	82 34 30

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.0395, 373.042, 373.0421 FS.  
History—New 8-7-00, Amended 4-6-20.*

## OPERATIONS, LANDS, AND RESOURCE MONITORING COMMITTEE

June 23, 2020

### *Consent Agenda*

#### **Knowledge Management: Sale, Exchange or Conveyance of Interests in Land by the District**

##### *Purpose*

Request Governing Board approval of the revised Sale, Exchange or Conveyance of Interests in Land by the District Policy containing two of the three updates proposed in September of 2019. There is no change in the biennial surplus lands assessment requirement in this Policy. The revised Policy is included as Exhibit 1.

##### *Background/History*

The District's Knowledge Management initiative was launched in Fiscal Year (FY) 2016 and is now a Core Business Process in the District's Strategic Plan. Knowledge Management is the practice of systematically and actively collecting, managing, sharing and leveraging the organization's data, information and processes. The focus is improving the organization of governing documents to facilitate knowledge sharing, ensure the alignment of division and bureau practices with Governing Board Policies and Executive Director Procedures, and allow for timely retrieval and review of existing governing documents.

Staff performed a review of the Sale, Exchange or Conveyance of Interests in Land by the District Policy and deemed it necessary to update the policy. The revised policy has been provided as an exhibit. The modifications include authorizing the Operations and Land Management Bureau Chief or designee to sign closing documents that do not require Governing Board approval and removing the requirement that the Governing Board must approve sales methods other than a broker or auction. The request to change the surplus lands assessment from two years to five years has been eliminated and the assessment will continue to occur biennially.

##### *Benefits*

Updating existing Governing Board Policies increases efficiencies and ensures organizational alignment.

##### **Staff Recommendation:**

Approve the Policy for the Sale, Exchange or Conveyance of Interests in Land by the District as revised.

**Presenters:** Jerry L. Mallams, P.G., Operations and Land Management Bureau Chief and  
Ellen Morrison, Operations and Land Management Assistant Bureau Chief

## GOVERNING BOARD POLICY

Southwest Florida Water Management District

**Title:** Sale, Exchange or Conveyance of Interest in Land by the District

**Document Owner:** Jerry Mallams P.G., Operations and  
Land Management Bureau Chief

**Approved By:** Mark Taylor, Chair

**Effective Date:**

**Supersedes:** 08/30/2016

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### PURPOSE

To establish guidance for the sale, exchange or conveyance of interest in lands where the District holds an interest or right.

### SCOPE

This policy applies to sale, exchange or conveyance of interest in lands where the District holds an interest or right.

### AUTHORITY

Sections 373.056, 373.089, 373.093, 373.096, 373.099 and 373.139, Florida Statutes (F.S.)  
Florida Forever Act (Section 259.105, F.S.)  
Preservation 2000 Act (Section 259.101, F.S.)  
Chapter 259, F.S.

### DEFINITIONS

N/A.

### STANDARDS

1. Lands not necessary to meet statutory requirements or to benefit one of the District's areas

## GOVERNING BOARD POLICY

### Title: Sale, Exchange or Conveyance of Interest in Land by the District

Effective Date:

Page 2 of 5

of responsibility may be considered surplus by the Governing Board at any time. On a biennial basis, the Governing Board will review the District's land holdings to identify lands that may be appropriate to surplus. Consideration may also be given to retaining a less-than-fee interest in conservation lands that are inherently inefficient for the District to manage due to circumstances such as, but not limited to, size, location or lack of access and upon a determination that continued fee ownership is no longer necessary to satisfy the conservation purposes for which the land was originally acquired.

2. For those lands designated as acquired for conservation purposes, the Governing Board must determine that the lands are no longer needed for conservation purposes, by a two-thirds vote. All lands acquired prior to July 1, 1999, for the purposes of 373.089, F.S., are deemed to have been acquired for conservation purposes. For those lands not designated as acquired for conservation purposes, the Governing Board must determine that the District no longer needs the lands, by majority vote. Lands, or interests or rights in lands, determined by the Governing Board to be surplus must be sold for the highest price obtainable, in accordance with Section 373.089, F.S.
3. No disposition of land shall be made if it would have the effect of causing all or any portion of the interest on any revenue bonds issued pursuant to Sections 259.101, or 259.105, F.S. to lose the exclusion from gross income for purposes of federal income taxation. All sales of land, or interests or rights in land, shall be for cash or upon terms and security to be approved by the Governing Board, but a deed may not be executed and delivered until full payment is made. A notice of the District's intention to sell any surplus lands, or interests or rights in lands, must be published in accordance with Section 373.089, F.S. The notice must set forth a description of the lands, or interests or rights in lands, to be offered for sale.
4. Any instruments of sale, lease, release or conveyance must be executed in the name of the District by the Governing Board through its Chair or Vice Chair and attested by the Secretary with the corporate seal affixed. Such instruments must not warrant title to any property sold, leased, released or conveyed.
5. The Governing Board may elect to establish a minimum price for any property designated as surplus. The Governing Board may also impose conditions on any minimum price that it deems appropriate, e.g. expiration dates of any minimum price, automatic escalators, or more frequent appraisal updates. If the Governing Board establishes a minimum price, the Governing Board Chair is authorized to execute a Purchase and Sale Agreement on behalf of the Governing Board and to execute any deeds or other conveyance instruments, attested by the Secretary, necessary to effectuate the sale of surplus property without the need for further action from the Governing Board.
6. Any sale of surplus property for which a minimum price has not been established by the Governing Board or any sale in which all conditions imposed by the Governing Board have not been met will require an affirmative vote by the Governing Board.
7. Documents related to the closing that do not require Governing Board approval may be executed by the Operations and Land Management Bureau Chief or other District staff as designated by the Bureau Chief.
8. Revenues derived from the sale or exchange of any District lands, or interests or rights in lands, acquired pursuant to the authority of Chapter 373 F.S., may not be used for any purpose except for the purchase of other lands, or interests in lands, for flood control, water



## GOVERNING BOARD POLICY

Title: Sale, Exchange or Conveyance of Interest in Land by the District

Effective Date:

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storage, water management, conservation and protection of water resources, aquifer recharge, water resource and water supply development, and preservation of wetlands, streams and lakes, or payment of debt service on revenue bonds or notes issued under Section 373.584, F.S. Revenues derived from the sale or exchange of District lands acquired with Preservation 2000 funding shall be deposited in accordance with Chapter 259 F.S.

### POLICY

The Governing Board is authorized to hold interests in land to assist the District in achieving its mission within its four areas of responsibility: water supply, flood protection, water quality, and natural systems. Interests in land can be leased, exchanged for interests in other land, conveyed to governmental entities, sold to non-governmental entities or, in some cases, simply released by the District. Each type of transfer is separately addressed below.

1. Release of Easements, Reservations and Right-of-Way Interests

The Governing Board may release an easement, reservation or right-of-way interest for which the District has no present or apparent future use under such terms and conditions as it may determine. As used in this paragraph, the term "easement" includes the right to use the property of another for access, ingress and egress, or operation, maintenance or construction purposes but specifically does not include less-than-fee interests purchased by the District for conservation purposes.

2. Conveyance of Easements or Leases to Public Utilities

The Governing Board may convey easement rights or authorize use agreements to providers of public utilities authorized through federal or state law. The terms and conditions of the easement will be established and approved by the Governing Board.

3. Conveyance or Lease to Governmental Entities

The Governing Board may convey or lease lands, or interests or rights in lands, not required for its purposes to any governmental entity under such terms and conditions as the Governing Board may determine.

4. Exchange of District Lands or Interests in Land

The Governing Board may exchange lands, or interests or rights in lands, for which title is vested in the District, for other lands, or interests or rights in lands, within the state owned by any person or entity. The Governing Board will fix the terms and conditions of any such exchange and may pay or receive any sum of money that it considers necessary to equalize the values of exchanged properties. Lands, or interests or rights in lands, acquired with monies from dedicated funding sources, such as the Water Management Lands Trust Fund, the Florida Preservation 2000 Trust Fund and the Florida Forever Trust Fund, may be exchanged only for lands, or interests or rights in lands, which meet the statutory requirements of the funding source for those programs.

5. Leases to Non-governmental Entities

The Governing Board may lease any lands so long as the lease is consistent with the purposes for which the lands were acquired, and where the Board determines that the lease is for the best price and terms obtainable. The District may solicit "offer to lease," or utilize other suitable methods approved by the Governing Board, as means of determining the best price and terms obtainable. Leases to non-governmental entities shall be in accordance with Section 373.093, F.S.

## GOVERNING BOARD POLICY

Title: Sale, Exchange or Conveyance of Interest in Land by the District

Effective Date:

Page 4 of 5

6. Sale of District Lands, or Interests in Land, to Non-governmental Entities

Lands that have been declared surplus by the Governing Board shall be sold for the highest price obtainable. This may be accomplished by offering the property for sale at public auction, through the use of a licensed real estate broker, or other appropriate methods. If the property is to be exchanged, an attempt to sell the property at public auction, through the use of a licensed real estate broker, or other appropriate methods will not be necessary.

## DISTRIBUTION

This policy will be stored in the designated Governing Board Policy repository.

## REFERENCES

N/A

## REVIEW PERIOD

This policy will be reviewed every five years.

## GOVERNING BOARD POLICY

Title: Sale, Exchange or Conveyance of Interest in Land by the District

Effective Date:

Page 5 of 5

### DOCUMENT DETAILS

Document Name	Sale, Exchange or Conveyance of Interest in Land by the District
Formerly Known As	N/A
Document Type	Policy
Author(s)	Jerry Mallams, P.G.
Reviewing Stakeholder(s)	Executive and Senior Staff
Document Owner Name	Jerry Mallams, P.G.,
Document Owner Title	Bureau Chief
Review Period (in days)	1,825
Span of Control	Governing Board
Supersedes Date	08/30/2016
Effective Date	

### APPROVAL

\_\_\_\_\_  
Mark Taylor  
Chair

\_\_\_\_\_  
Date

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

**June 23, 2020**

***Consent Agenda***

**Non-Exclusive Utility Easement to Tampa Electric Company (TECO) on the Brooker Creek Headwaters Nature Preserve for the Zambito Property – SWF Parcel No. 14-074-160X**

***Purpose***

Request Governing Board approval for the conveyance of a proposed no cost, 30-foot wide, non-exclusive utility easement to Tampa Electric Company (TECO Easement) over 0.25 acres (10,881 square feet) located on the District's Brooker Creek Headwater Nature Preserve (Preserve). A general location map, site map and the TECO Easement are attached as Exhibit 1, 2 and 3, respectively.

***Background and History***

The District and Hillsborough County purchased the Preserve subject to the Keystone Park Colony platted development. The historical plat has multiple public road right of ways (platted roads) incorporated within the development for public access purposes. Three specific 30-foot platted roads extend across the Preserve and connects Ramblewood Road, a public road that traverses the Preserve, to the Nelson and Pauline Zambito property. These platted roads are not developed.

In May 2017, the Governing Board approved the conveyance of a no cost, non-exclusive easement (Zambito Easement) to the Nelson and Pauline Zambito property, a copy of which is attached hereto as Exhibit 4, in response to Mr. and Mrs. Zambito's request to modify an existing point of access to their property that transected a portion of the Preserve and in exchange for vacating one of the three the previously mentioned platted, 30-foot wide roads, (0.30 acres, 13,086 square feet) .

The Zambito Easement allows for sufficient rights to install utility lines to provide service to the Zambito property. However, TECO has indicated to Mr. and Mrs. Zambito that in order to install the contemplated utility lines mentioned above, they require a separate, stand-alone utility easement from the District for the benefit of TECO.

The proposed TECO Easement allows for rights necessary to construct, install, operate, utilize, patrol, inspect, alter, improve, repair, rebuild, relocate or remove such lines, systems and supporting structures (including poles) and related facilities, including the right to increase or decrease the number and type of supporting structures (including poles), wires and voltage, and to build, maintain and protect such roadways as may reasonably be required for these purposes subject to indemnifying the District. In the event the TECO Easement is no longer required, TECO will release the rights, title and interest in the TECO Easement.

***Appraisal and Valuation Summary***

Values were not obtained from an appraiser because the right to construct utilities was already granted by the District through the Zambito Easement.

## Item 14

### *Benefits/Costs*

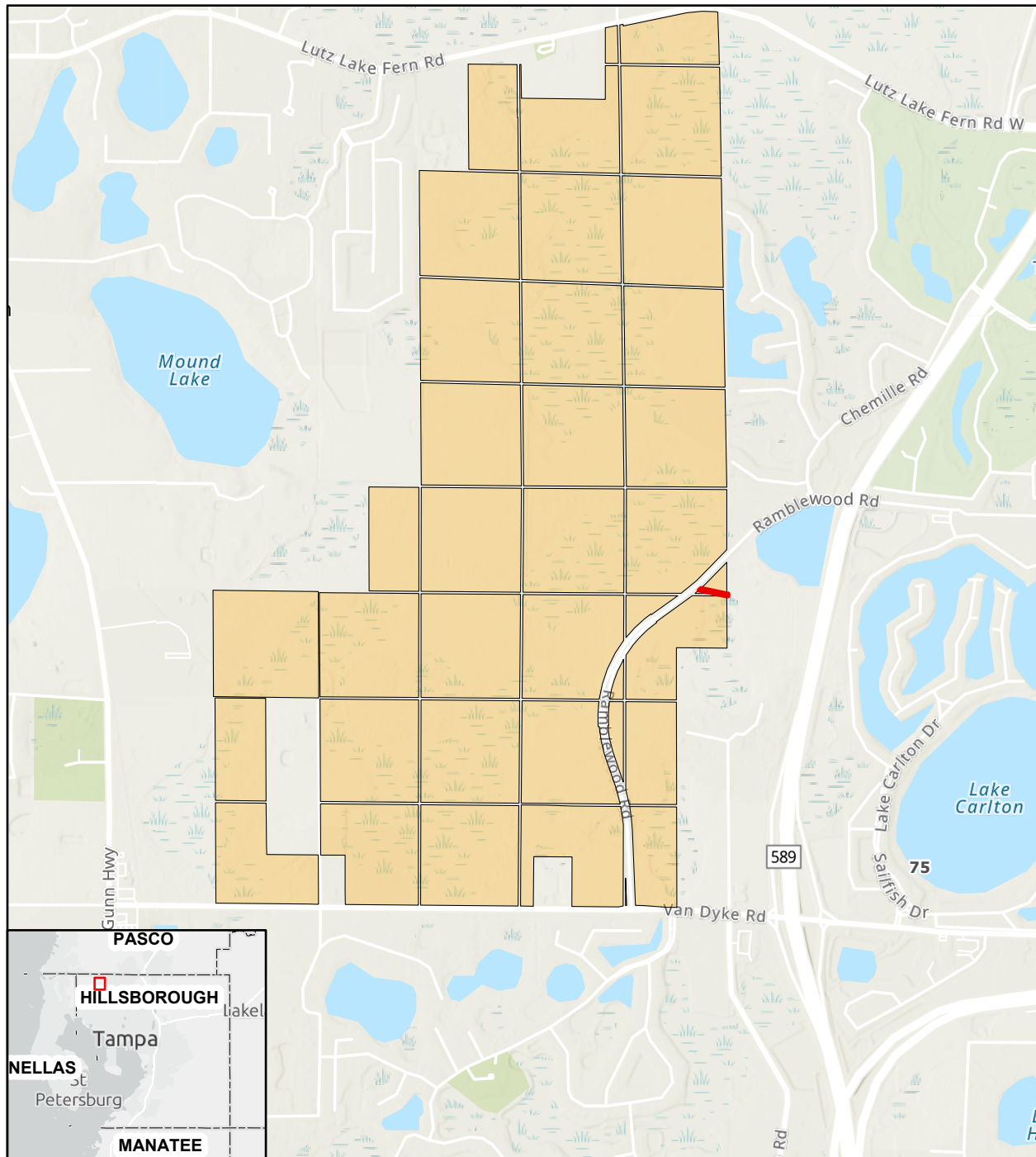
Approval of the TECO Easement will provide appropriate authorization to construct, operate and maintain utilities to the Nelson and Pauline Zambito property and will indemnify the District. This is a no cost easement.

### Staff Recommendation:

- Approve the conveyance of a no cost, non-exclusive utility easement to TECO.
- Authorize staff to execute any other documents necessary to complete the transaction in accordance with the approved terms.

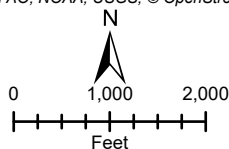
Presenters: Jerry L. Mallams, P.G., Operations and Land Management Bureau Chief and  
Ellen Morrison Operations and Land Management Assistant Bureau Chief

**Exhibit 1, General Location Map  
Non-Exclusive Utility Easement to TECO for  
Brooker Creek Headwaters Nature Preserve SWF Parcel No. 14-074-160X**



Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap and the GIS user community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

- District-owned Fee Simple Lands
- Non-Exclusive Utility Easement to TECO



**Southwest Florida**  
Water Management District

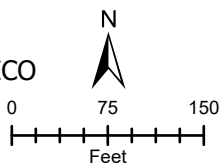


**Exhibit 2, Site Map**  
**Non-Exclusive Utility Easement to TECO for**  
**Brooker Creek Headwaters Nature Preserve SWF Parcel No. 14-074-160X**



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

- Non-Exclusive Utility Easement to TECO
- District-owned Fee Simple Lands



**Southwest Florida**  
 Water Management District

**Attachment: Exhibit 2 Site Map 14-074-160X (5091 : TECO Utility Easement - SWF Parcel No. 14-074-160X)**

Prepared by and return recorded  
document to:  
Attn: Carmen Sanders  
Southwest Florida  
Water Management District  
2379 Broad Street  
Brooksville, Florida 34604

### **NON-EXCLUSIVE UTILITY EASEMENT**

**THIS NON-EXCLUSIVE UTILITY EASEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2020, by and between the Southwest Florida Water Management District, a public corporation, having an address of 2379 Broad Street, Brooksville, Florida 34604 Florida 33601 (Grantor), and Tampa Electric Company, a Florida corporation having an address of Post Office Box 111, Tampa, Florida 33601 (Grantee).

### **WITNESSETH:**

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

**WHEREAS**, Grantee desires to install transmission lines, distribution lines, and communication systems and related facilities for providing electric energy services located within the Property and desires Grantor to grant Grantee rights for said electric facilities.

**NOW THEREFORE**, Grantor, in consideration of the sum of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, grants, bargains, sells and conveys to Grantee and its successors and assigns, a Non-Exclusive Utility Easement (Easement) to enter upon, over, on, under and across the Property.

**TOGETHER WITH** the right of ingress and egress to and from the same, and all rights and privileges therein which are or may be necessary to construct, install, operate, utilize, patrol, inspect, alter, improve, repair, rebuild, relocate or remove such lines, systems and supporting structures (including poles) and related facilities, including the right to increase or decrease the number and type of supporting structures (including poles), wires and voltage, and to build, maintain and protect such roadways as may reasonably be required for these purposes subject to the following terms and conditions.

1. The Grantor reserves the right to use the Property for any purpose which will not interfere or conflict in any manner with use thereof by the Grantee for the foregoing purposes.
2. The Grantor acknowledges that electric transmission lines, or other electrical or communication facilities or system or systems installed on, over or under the Property at the



Grantee's expense will remain the property of the Grantee.

3. The Grantee will indemnify and save harmless Grantor and its agents, employees, and officers from and against any and all actions, causes, claims, demands, judgments, losses, payments, recoveries and suits of any kind arising under or resulting from any negligent act or omission of Grantee, or its agents, contractors, employees, invitees and licensees. Nothing herein will be deemed a waiver, express or implied, of Grantor's sovereign immunity under Section 768.28, Florida Statutes, (F.S.), or extend Grantor's liability beyond the limits established in Section 768.28, F.S.

4. The aforesaid rights and privileges granted shall include the right and privilege to trim any and all trees or shrubs upon said Property and the Grantee shall also have the right and privilege to trim any and all trees upon the Grantor's lands adjacent to said Property, wherever the Grantee may deem it necessary or desirable to do so for the protection of said installations.

5. Within ninety (90) days after written notice by the Grantee to the Grantor that this Easement is no longer necessary for the foregoing purposes, the Grantee will remove all its facilities and fixtures from the Property and this Easement will automatically terminate and revert to the Grantor. Following termination of this Easement, upon request by the Grantor, the Grantee will execute a release of easement conveying all right, title and interest in this Easement to the Grantor.

6. The terms "Grantor" and "Grantee" herein will be construed to include the successors and assigns of the respective parties hereto, wherever the context so admits or requires. Any provisions of this instrument, including benefits and burdens, run with the land and are binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

**[The remainder of this page intentionally left blank.]**

**IN WITNESS WHEREOF**, this Non-Exclusive Utility Easement has been executed by Grantor on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, and is effective as of the Effective Date herein.

(seal)

**GRANTOR:**

Southwest Florida Water Management District,  
a public corporation of the State of Florida

BY: \_\_\_\_\_  
Mark Taylor, Chairman

**ACKNOWLEDGMENT**

STATE OF FLORIDA  
COUNTY OF HERNANDO

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by MARK TAYLOR, as Chairman, of the GOVERNING BOARD OF THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, who is personally known to me.

(Notary Seal)

\_\_\_\_\_  
Notary Public  
Print: \_\_\_\_\_  
Commission No: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Joel Schleicher, Secretary

**ACKNOWLEDGMENT**

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by JOEL SCHLEICHER, as Secretary, of the GOVERNING BOARD OF THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, who is personally known to me.

(Notary Seal)

\_\_\_\_\_  
Notary Public  
Print: \_\_\_\_\_  
Commission No: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Approved as to Form

\_\_\_\_\_  
Karen West, General Counsel

This easement prepared by:  
Office of General Counsel  
Southwest Florida Water Management District  
2379 Broad Street  
Brooksville, Florida 34609

INSTRUMENT#: 2017232589, O BK 25015  
PG 784-799 06/13/2017 at 02:56:05 PM, DOC  
TAX PD(F.S.201.02) \$0.70 DEPUTY CLERK:  
PSALMOND Pat Frank, Clerk of the Circuit  
Court Hillsborough County

### NON-EXCLUSIVE EASEMENT AGREEMENT

**THIS NON-EXCLUSIVE EASEMENT AGREEMENT** ("Easement Agreement") is by and between the Southwest Florida Water Management District, a public corporation having an address of 2379 Broad Street, Brooksville, Florida 34604-6899, (the "Grantor"), and the Nelson P. and Pauline P. Zambito, having an address of 325 South Boulevard, Tampa, Florida 33606, (the "Grantee").

#### WITNESSETH:

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

**WHEREAS**, the Grantee owns property adjacent to the Property that is designated a Planned Development and the Grantee wishes to cross the Property for access to the northern section of the Grantee's property (the "Zambito Property"); and

**WHEREAS**, the Grantor agrees to convey to the Grantee a 30-foot wide non-exclusive easement described in Exhibit "B", for ingress and egress to the Zambito Property; and

**WHEREAS**, a portion of the Property includes unimproved right-of-way associated with the Keystone Park Colony subdivision as per map or plat thereof in Plat Book 5, Page 55 of the Public Records of Hillsborough County; and

**WHEREAS**, Grantor and Grantee have agreed to jointly request Hillsborough County to vacate the unimproved 30-foot right-of-way referenced above as additional consideration to the Grantor for conveying the easement granted herein.

**NOW THEREFORE**, in consideration of the sum of Ten and 00/100 Dollars (\$10.00) paid by Grantee to Grantor, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor and the Grantee agree as follows:

1. **Purpose:** Grantor does hereby remise, release, grant and convey to the Grantee, its agents, employees, contractors, subcontractors, agents, guests, invitees, successors and assigns, a non-exclusive perpetual easement over and across a portion of the Property more particularly described in Exhibit "B", attached hereto and incorporated herein by this reference (the "Easement Parcel"), for; (a) pedestrian and vehicular ingress and egress between the



Zambito Property and Ramblewood Road, a public right of way; (b) constructing, altering, using, operating, inspecting, maintaining, repairing, and replacing paving and other improvements that facilitate or enhance the use of the Easement Parcel, including but not limited to curbs, gates, lighting and fencing; and (c) constructing, altering, using, operating, inspecting, maintaining, repairing, and replacing above and below ground water, sewer, electric, telephone, internet, cable television and other utility lines to provide service to the Zambito Property. The easements granted herein are appurtenant to and for the benefit of the Zambito Property.

## **2. Terms and Restrictions:**

a. At least thirty (30) days prior to any construction or modification within the Easement Parcel, Grantee will notify Grantor in writing of the proposed construction and provide Grantor with one set of draft construction plans for review and approval prior to proceeding with any modification or construction. The Grantor's review and approval of the draft construction plans does not constitute a representation or warranty that the Grantor has verified the architectural, engineering, mechanical, electrical, or other components of the construction plans and documents, or that such plans and documents comply with Grantor's rules, and regulations or any other applicable rules, regulations, or laws. The Grantor agrees that its approval of the draft construction plans will not be unreasonably delayed or withheld.

b. The Grantee will obtain all necessary permits, approvals and licenses from all appropriate agencies prior to constructing, operating, maintaining and managing improvements in the Easement Parcel. The Grantee will construct improvements in the Easement Parcel in conformance with the Hillsborough County Land Development Code and its adopted transportation guidelines.

c. The Grantee will design and construct improvements in the Easement Parcel in a manner that will ensure the hydrologic flow and connections on the Property are not obstructed, interfered with or changed.

d. Upon completion of any construction of improvements in the Easement Parcel, the Grantee will (1) remove all surplus materials, including construction materials and soil displaced by Grantee's construction within the Easement Parcel; (2) return any disturbed areas of the Property to natural grade where topographical features allow, and (3) seed and mulch all disturbed areas in the Easement Parcel.

e. The Grantee will be solely responsible for maintenance of improvements in the Easement Parcel and any costs to maintain.

f. The Grantor will have access through the Easement Parcel at all times and reserves the right to conduct activities necessary for compliance with its water management responsibilities provided such activities do not interfere with the use of the Easement Parcel. The Grantee, in the exercise of its rights hereunder, will permit no action, activity, or course of conduct by its contractors, agents, representatives, employees, guests, invitees, or licensees that would be detrimental, hazardous, or unduly restrictive to the parties' joint use of the Easement Parcel. Likewise, the Grantor, in the exercise of its ownership rights will not permit any action, activity, or course or conduct by their contractors, agents, representatives, employees, guests, invitees or licensees, that would be detrimental, hazardous, or unduly restrictive to the uses granted herein to the Grantee.

g. The Grantee may erect a boundary fence along each boundary of the Easement Parcel. Any such fence shall include access gates to allow the Grantor access to both sides of the Easement Parcel. The Grantee may erect a standard or electric gate and lighting facilities along the County public road right-of-way (Ramblewood Road) and at the boundary of the Easement Parcel and the Zambito Property for security purposes.

h. If any ad valorem taxes, intangible property taxes, personal property taxes, or other taxes or assessments of any kind are assessed or levied on the Easement Parcel and the improvements thereon based on the Grantee's use thereof the Grantee will pay said taxes within forty-five (45) days after receiving written notice thereof from the Grantor. In the event the Grantee fails to pay all said taxes assessed or levied on the Property or the improvements thereon within forty-five (45) days after receiving written notice thereof from the Grantor, the Grantor may, at its sole option, pay said taxes subject to immediate reimbursement thereof in full together with any interest thereon at the maximum rate allowed by law and any administrative costs incurred by the Grantor, including reasonable attorney's fees.

**3. Liability:** The Grantee agrees to indemnify and hold harmless the Grantor and its agents, employees and officers from and against all injuries, deaths losses, liabilities, claims, damages, judgments, expenses or actions, either at law or in equity, including attorney fees and costs, attorney fees and costs on appeal, and the costs of paraprofessionals working under the supervision of an attorney, caused or incurred, in whole or in part, as a result of any act or omission by the Grantee or anyone for whose acts or omissions the Grantee may be liable as a result of the exercise of the Grantee's rights under this Easement Agreement. Nothing contained herein will constitute a waiver of the Grantor's sovereign immunity under Section 768.28, Florida Statutes, or to extend the limits of liability or recovery under Section 768.28, Florida Statutes. This provision will survive the termination of this Easement Agreement.

**4. Litigation:** In connection with any litigation arising under this Easement Agreement the prevailing party will be entitled to recover its expenses therefore, including reasonable attorneys' and legal assistants' fees and cost prior to trial, at trial, and on appeal, in bankruptcy proceedings, and in connection with enforcing or collecting upon any judgment. This provision does not constitute a waiver of either party's sovereign immunity under Section 768.28, F.S. or extend either party's liability beyond the limits established in Section 768.28, F.S.

**5. Recordation:** This Easement Agreement shall be recorded in the Public Records of Hillsborough County, Florida and the recordation of this Easement Agreement will constitute acceptance of the conditions, reservations, reversions and covenants herein.

**6. Notice:** Any notice required or permitted to be delivered hereunder will be deemed received when personally delivered or when mailed by United States Mail, postage prepaid, certified mail, return receipt requested, or telegram, addressed as follows:

If intended for Grantor:  
Southwest Florida Water Management District  
Attention: Director, Operations, Lands and Resource Monitoring Division  
2379 Broad Street  
Brooksville, Florida 34604

If intended for Grantee:



Nelson P. and Pauline P. Zambito  
c/o Daniel F. Molony, Esq.  
6703 Rose Lea Circle  
Lutz, Florida 33558

Either party may change its address by giving notice to the other party in the manner provided in this paragraph.

**7. Binding Effect:** The terms, conditions and provisions contained in this Easement Agreement will run with the land and apply to, bind and inure to the benefit of the Grantor, Grantee and their respective successors, legal representatives and assigns.

**8. Effective Date:** The effective date of this Easement Agreement will be the last date upon which all the parties hereto have executed this Easement Agreement, as demonstrated by the date under the signature on the signature page.

**9. Jury Trial Waiver.** The parties each knowingly, voluntarily and intentionally waive any right which either of them may have to a trial by jury with respect to any litigation or legal proceeding based upon or arising directly, indirectly or otherwise in connection with, out of, related to this Easement Agreement. The parties have specifically discussed and negotiated for this waiver and understand the legal consequences of same.

**10. Waiver of Breach.** The failure of any party hereto to enforce any provision of this Easement Agreement shall not be construed to be a waiver of such or any other provision, nor in any way to affect the validity of all or any part of this Easement Agreement or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Easement Agreement shall be held to constitute a waiver of any other or subsequent breach.

**11. Governing Law; Venue.** This Easement Agreement shall be governed in accordance with Florida law. Venue for any dispute arising under this Agreement shall lie exclusively in the courts located in Hillsborough County, Florida.

**[Signature Pages Follow]**

IN WITNESS WHEREOF, the Grantor and has caused this Easement Agreement to be duly executed on the dates set forth below.

Attest:

By: Bryan K. Beswick  
Bryan K. Beswick, Secretary

Southwest Florida Water  
Management District, as Grantor  
By: Randall S. Maggard  
Randall S. Maggard, Chairman

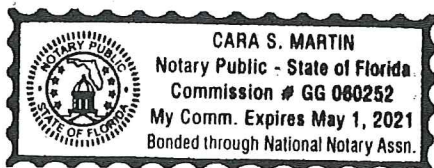
(SEAL)

### DISTRICT'S ACKNOWLEDGMENT

STATE OF FLORIDA  
COUNTY OF Pasco

The foregoing instrument was acknowledged before me this 25 day of May, 2017, by Randall S. Maggard as Chair and Bryan K. Beswick as Secretary of the Governing Board of the Southwest Florida Water Management District, a public corporation, on behalf of the Southwest Florida Water Management District, who are personally known to me.

NOTARY SEAL



Cara S. Martin  
Notary Public  
Print: Cara S. Martin  
Commission No. GG 060252  
My Commission Expires: May 1, 2021

Signed, sealed and delivered  
in the presence of:

Dorene A. Zambito  
Witness #1 signature

DORENE A. ZAMBITO  
Print Witness #1 name

Andrea Z. Molony  
Witness #2 signature

ANDREA Z. MOLONY  
Print Witness #2 name

Nelson P. Zambito  
Nelson P. Zambito

Pauline P. Zambito  
Pauline P. Zambito

# ACKNOWLEDGMENT

STATE OF FLORIDA  
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 11th day of June, 2017, by Nelson P. Zambito and Dayline P. Zambito as husband and wife. They are personally known to me or have produced as identification.

(Seal)

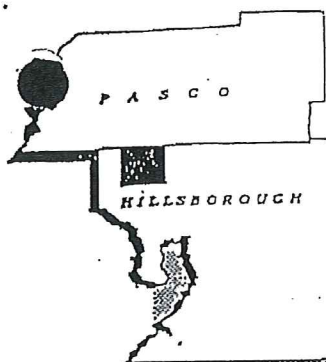
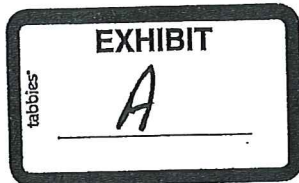
Laurel L. Maranto  
Name of Notary  
 LAUREL L. MARANTO  
MY COMMISSION # FF 111005  
EXPIRES: June 10, 2018  
Bonded Thru Notary Public Underwriters  
(Name of Notary typed, printed or stamped)

Commission No. FF 111005

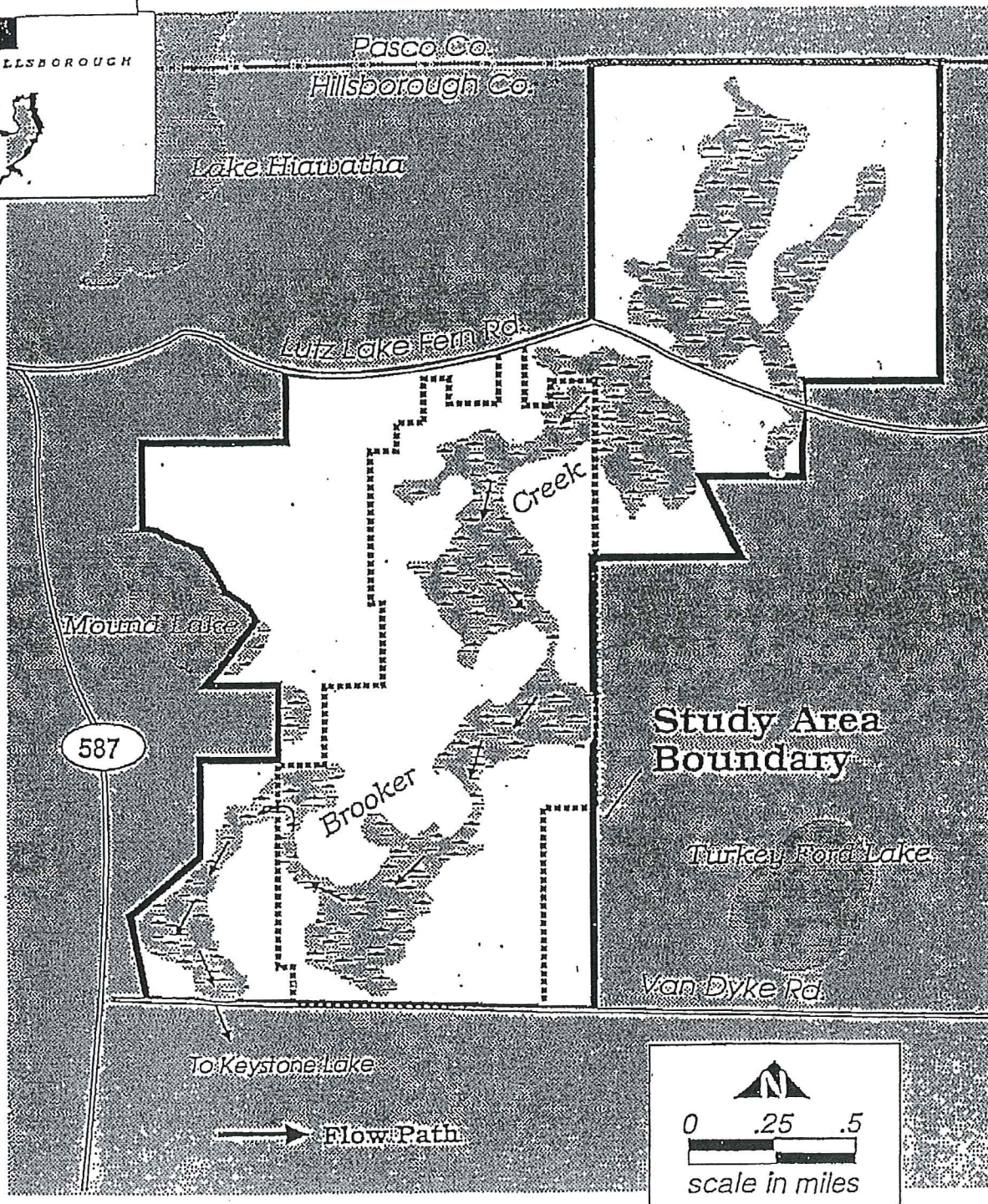
My Commission Expires: June 10, 2018

APPROVED BY:	INITIALS	DATE
ATTORNEY	<u>LM</u>	<u>3/15/17</u>
MANAGER	<u>DS</u>	<u>3/15/17</u>
BUR CHIEF	<u>Jem</u>	<u>5/17/17</u>
DIV. DIR.	<u>JD</u>	<u>5.25.17</u>

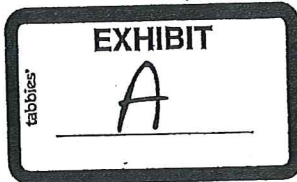




# Brooker Creek Addition







**PARCEL I:**

That part of Tract 14 of the Southeast quarter of Section 1, Township 27 South, Range 17 East, lying South of the Southerly right of way of Lutz-Lake Fern Road AND Tracts 3 and 4 of the Northeast quarter of Section 12, Township 27 South, Range 17 East of KEYSTONE PARK COLONY, as per map or plat thereof recorded in Plat Book 5 on Page 55 of the Public Records of Hillsborough County, Florida, LESS the following described tract, to wit: From the North quarter corner of Section 12, Township 27 South, Range 17 East; thence East along the North boundary line of said Section 12, a distance of 32.00 feet to a POINT OF BEGINNING; thence continue East along said North boundary line of Section 12, a distance of 606.04 feet; thence North  $01^{\circ}53'00''$  West along the West boundary line of Tract 14 of the Southeast quarter of Section 1, Township 27 South, Range 17 East 359.37 feet to a point on the Southerly right of way line of Lutz-Lake Fern Road; thence North  $77^{\circ}34'20''$  East, along the said Southerly right of way line of Lutz-Lake Fern Road 475.59 feet; thence South 901.53 feet; thence West 1058.68 feet; thence North 440.00 feet to the aforementioned POINT OF BEGINNING.

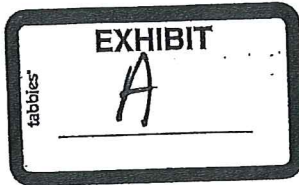
**PARCEL II:**

Tract 1 and Tracts 5 to 16, inclusive, in the Northeast quarter; Tracts 8, 9, 10, 15 and 16 in the Northwest quarter; Tracts 1, 2, 7, 8, 9, 10, 15 and 16 in the Southwest quarter; and Tracts 1 to 16, inclusive, in the Southeast quarter, all in Section 12, Township 27 South, Range 17 East, KEYSTONE PARK COLONY, as per map or plat thereof recorded in Plat Book 5 on Page 55, of the public records of Hillsborough County, Florida.

**PARCEL III:**

Tracts 1 to 4, inclusive, and Tracts 6 to 15, inclusive, in the Northeast quarter; Tracts 1, 2, 6, 7, 8, 9, 10, 11, 12, 15 and 16 in the Northwest quarter;

CONTINUED ON NEXT PAGE . . .



Tracts 1 to 12, inclusive, the East half of Tract 13 and Tracts 14, 15 and 16 in the Southwest quarter; Tracts 2 to 7, inclusive, Tracts 10 and 11 and Tracts 14 and 15 in the Southeast quarter, all in Section 13, Township 27 South, Range 17 East, KEYSTONE PARK COLONY, as per map or plat thereof recorded in Plat Book 5, on Page 55, of the Public Records of Hillsborough County, Florida, LESS that part of Tracts 13, 14, 15, and 16 in the Southwest quarter and Tracts 14 and 15 in the Southeast quarter, all in Section 13, Township 27 South, Range 17 East, KEYSTONE PARK COLONY, deeded to State of Florida by deed recorded in Official Records Book 245 on Page 39 and by deed recorded in Official Records Book 775 on Page 649 and by deed recorded in Official Records Book 765 on Page 413.

**PARCEL IV:**

Tract 5 in the Northeast quarter of Section 13, Township 27 South, Range 17 East, KEYSTONE PARK COLONY, as per map or plat thereof recorded in Plat Book 5 on Page 55, of the public records of Hillsborough County, Florida.

**PARCEL V:**

The West 42 feet of Tract 2 in the Northeast 1/4 of Section 12, Township 27 South, Range 17 East AND the West 42 feet of Tract 15 in the Southeast 1/4 of Section 1, Township 27 South, Range 17 East, lying South of the Southerly right of way line for Lutz-Lake Fern Road, all in KEYSTONE PARK COLONY, as per map or plat recorded in Plat Book 5 on Page 55, of the public records of Hillsborough County, Florida.

**PARCEL VI:**

Tract 3 in the Northwest quarter of Section 13, Township 27 South, Range 17 East, KEYSTONE PARK COLONY, as per map or plat thereof recorded in Plat Book 5, Page 55, public records of Hillsborough County, Florida.

CONTINUED ON NEXT PAGE . . .



**PARCEL VII:**

Tracts 13 and 14 in the Northwest quarter of Section 13, Township 27 South, Range 17 East, KEYSTONE PARK COLONY, as per map or plat thereof recorded in Plat Book 5, Page 55, public records of Hillsborough County, Florida.

LESS AND EXCEPT road right of way for Ramblewood Road deeded to Hillsborough County in Official Records Book 5115, Page 339, public records of Hillsborough County, Florida.



SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
Northwest Hillsborough Basin  
Brooker Creek - Headwaters

SWF Parcel No. 14-074-142  
(O.R. 2086, Pg. 406)

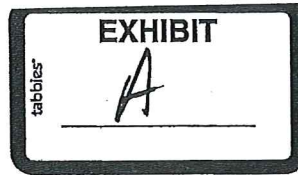
January 13, 1994  
Revised June 10, 1994

Tract 1 in the Northeast 1/4 of the Northwest 1/4 of Section 12, Township 27 South, Range 17 East of KEYSTONE PARK COLONY as shown on the plat recorded in Plat Book 5, Page 55 of the Public Records of Hillsborough County, Florida.

Parcel contains 9.56 acres more or less.

Attachment: Exhibit 4 Zambito Easement 14-074-159X (5091 : TECO Utility Easement - SWF Parcel No. 14-074-160X)





SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
Northwest Hillsborough Basin  
Brooker Creek

SWF Parcel No. 14-074-139A

February 9, 1994

The West 1/4 of Tract 13 in the Southeast 1/4 of Section 13, Township 27 South, Range 17 East of KEYSTONE PARK COLONY as shown on the plat recorded in Plat Book 5, Page 55 of the Public Records of Hillsborough County, Florida;

Less right of way for Van Dyke Road as recorded in Official Record Book 772, Page 467 of the Public Records of Hillsborough County, Florida, and described as follows:

That part of:

Tract 13 in SE 1/4 of Section 13, Township 27 South, Range 17 East, Keystone Park Colony, as per map or plat thereof recorded in Plat Book 5, Page 55, Public Records of Hillsborough County, Florida,

lying within 40 feet of the Survey Line of SR S-685-A, Section 1076, said Survey Line being described as follows:

Begin at the SW corner of Section 13, Township 27 South, Range 17 East; run thence South 89°36'50" East 2518.4 feet; thence South 89°45'35" East 2124.06 feet to the beginning of a curve concave to the Southerly having a radius of 11459.16 feet; thence Easterly along said curve 527.04 feet through a central angle of 02°38'07" to the East boundary of Section 24, Township 27 South, Range 17 East at a point 12.03 feet South of the NE corner thereof (SE corner of said Section 13).

LESS existing Right of Way.

Containing 0.37 acre, more or less.

Net area of Parcel 14-074-139A is 2.32 acres more or less.



SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
Northwest Hillsborough Basin  
Brooker Creek

SWF Parcel No. 14-074-139B

February 9, 1994

Tract 12 in the Southeast 1/4 of Section 13, Township 27 South, Range 17 East of KEYSTONE PARK COLONY as shown on the plat recorded in Plat Book 5, Page 55 of the Public Records of Hillsborough County, Florida, less the North 400.00 feet of the West 312.00 feet of said Tract 12.

Parcel contains 6.80 acres more or less.



SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
Northwest Hillsborough Basin  
Brooker Creek

SWF Parcel No. 14-074-140

The North 400.00 feet of the West 312.00 feet of Tract 12 in the Southeast 1/4 of Section 13, Township 27 South, Range 17 East of KEYSTONE PARK COLONY as shown on the plat recorded in Plat Book 5, Page 55 of the Public Records of Hillsborough County Florida.

Parcel contains 2.87 acres more or less

Together with any right, title and interest Grantor may have, without representation or warranty, in and to an easement for ingress and egress described as follows:

a 15-foot easement for ingress and egress over the West 15.00 feet of Tracts 12 and 13 in the Southeast 1/4 of Section 13, Township 27, Range 17, Keystone Park.



LEGAL DESCRIPTION PARCEL 14-074-159X

A parcel of land lying in the Northeast 1/4 of Section 13, Township 27 S., Range 17 E., Hillsborough County, Florida also being a portion of lands described in Official Records Book 7121 page 1663 of the Public Records of Hillsborough County also being a portion of Lot 8 Keystone Park Colony Plat Book 5 page 55 of the Public Records of Hillsborough County and being more particularly described as follows:

Commence at the Northeast corner of said Section 13; thence along the East line of the Northeast 1/4 of said Section 13 S 00°04'18" E, a distance of 1343.52' to an intersection of said East line of Section 13 with the East projection of the centerline of a 30' right-of-way as shown on Keystone Park Colony Plat Book 5 Page 55, said intersection also being the Northeast corner of the Northeast 1/4 of the Southeast 1/4 of the Northeast 1/4 of said Section 13 for a POINT OF BEGINNING; thence continue along said East line of said Section 13 S 00°04'18" E, a distance of 15.00' to the East projection of the South line of said 30' right-of-way; thence leaving said East line of Section 13 N 89°33'33" W, a distance of 18.32' along the East projection of the said South line of said 30' wide right-of-way and along said South line of said 30' wide right-of-way; thence N 77°56'09" W, a distance of 358.86' to a point on the Easterly right-of-way line of Ramblewood Road according to Official Records Book 5115 page 339 of the Public Records of Hillsborough County; thence along said Easterly right-of-way of Ramblewood Road along a non-tangent curve to the left having a radius of 2346.83' and along the arc of said curve 37.12' through a central angle of 00°54'22" having a chord bearing of N 48°08'51" E and a chord length of 37.12' to a point on said Easterly right-of-way, said point having a chord bearing and distance of S 45°57'00" W, 142.86' from a 1/2" capped iron rod stamped "PLS 3393" as found on said Easterly right-of-way; thence leaving said Easterly right-of-way S 77°56'09" E a distance of 333.95' to the intersection of the North line of said 30' wide right-of-way with the West line of a 15' wide right-of-way as shown on Keystone Park Colony Plat Book 5 Page 55; thence along the East projection of said North line of a 30' right-of-way S 89°33'33" E, a distance of 15.00' to a point on the aforementioned East line of the Northeast 1/4 of said Section 13; thence along the said East line of the Northeast 1/4 of said Section 13 S 00°04'18" E a distance of 15.00' to the POINT OF BEGINNING.

Subject to existing right-of-ways as shown on Keystone Park Colony Plat Book 5 page 55 of the Public Records of Hillsborough County.

The above described lands containing 10,890 square feet more or less 0.25 acres.

Notes:

1. Bearings shown hereon are based on the Florida State Plane Coordinates System (FSPCS), Florida West Zone, NAD 1983/2011 and are derived from Real Time Kinematic - Global Navigation Satellite System (RTK-GNSS) measurements, using the Leica VIVA NRTK-GPS with the Florida Permanent Reference Network (FPRN). The FPRN network is based on direct ties to National Geodetic Survey (NGS) Control Stations. The horizontal accuracies are validated using NGS Control Station X733 (DL6661).
2. Basis of bearings is the East line of the Northeast 1/4 of Section 13, Township 27 S., Range 17 E. as S 00°04'18" E. per stated Boundary Survey in note 3.
3. A previous Boundary Survey prepared by Heidt & Associates, Inc entitled "Boundary Survey for FDIC-CYPRESS BEND", revised date 9-17-93 as Dwg. No. 14-074-123A was utilized in the preparation of this Sketch and Description.
4. Distances shown hereon are ground values, a scale factor of 0.999977302 should be used to convert to grid. Distances are in U.S. Survey feet
5. This is not a Survey.

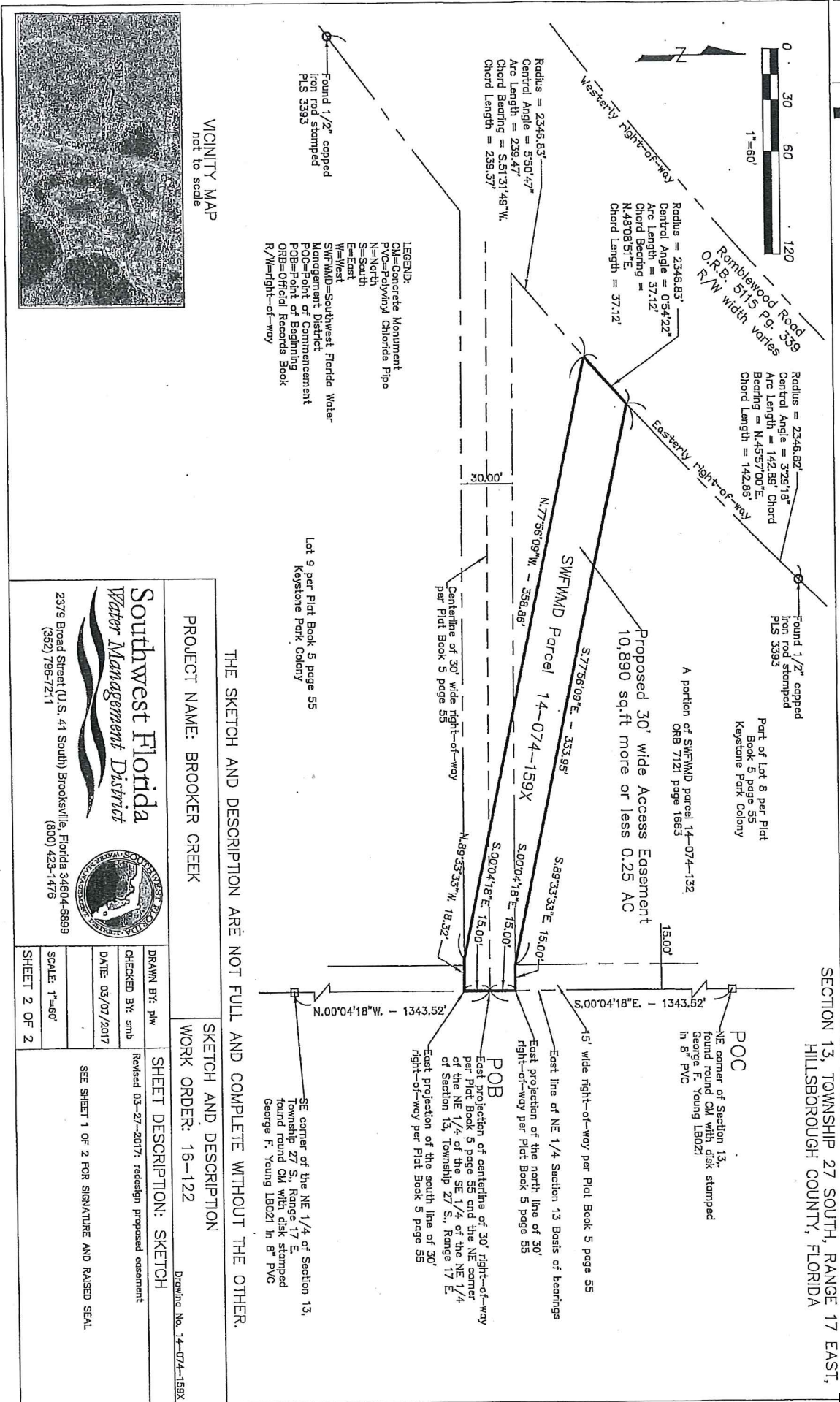
THE SKETCH AND DESCRIPTION ARE NOT FULL AND COMPLETE WITHOUT THE OTHER.

PROJECT NAME: BROOKER CREEK		SKETCH & DESCRIPTION	
		WORK ORDER: 16-122	
DRAWN BY: plw		SHEET DESCRIPTION: DESCRIPTION	
CHECKED BY: ermb		Revised 03-27-2017: redacting proposed easement	
DATE: 03-07-2017		3/31/17	
SHEET 1 OF 2		James F. Owens, PSM Florida Professional Surveyor and Mapper No. 5014	

Southwest Florida  
Water Management District

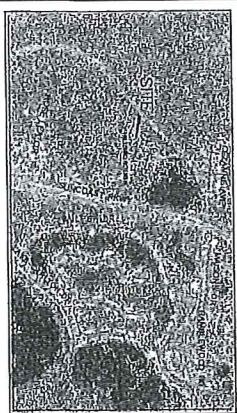


2379 Broad Street (U.S. 41 South) Brooksville, Florida 34604-6899  
(352) 796-7211 (800) 423-1476



PROJECT NAME: BROOKER CREEK WORK ORDER: 16-122		SHEET DESCRIPTION: SKETCH Drawing No. 14-074-159X	
DRAWN BY: plw CHECKED BY: smb DATE: 03/07/2017		SHEET DESCRIPTION: SKETCH Revised 03-27-2017: redesign proposed easement	
SCALE: 1"=60' SHEET 2 OF 2		SEE SHEET 1 OF 2 FOR SIGNATURE AND RAISED SEAL	

**Southwest Florida Water Management District**  
  
 2379 Broad Street (U.S. 41 South) Brooksville, Florida 34604-6899  
 (352) 796-1211 (800) 423-1476



VICINITY MAP  
not to scale

## OPERATIONS, LANDS, AND RESOURCE MONITORING COMMITTEE

June 23, 2020

### *Consent Agenda*

#### **Non-Exclusive Perpetual Easement for Lake Arietta Access – SWF Parcel No. 10-201-115P**

##### *Purpose*

Request acceptance of a Non-Exclusive Perpetual Access Easement (Easement) for the District to access the remote water-level monitoring equipment for Lake Arietta installed on a privately owned dock. Exhibits will be provided under separate cover.

##### *Background/History*

The Hydrologic Data Section supports the operations of the District's water management activities by collecting water resource data such as staff gauge water level data in certain bodies of water. Many of these sites are located on private property due to lack of public property access. In order to obtain continuous water level readings throughout the highs and lows of the hydrologic cycle, equipment is often installed on public and private docks, which extend into the water body allowing for deeper water measurement points.

The private dock on Lake Arietta has been used by the District for this purpose for many years through a verbal agreement with the property owner. However, the dock is falling into disrepair, endangering staff required to visit the site monthly to collect data and ensure the equipment is in top operational condition. The Hydrologic Data Section has budgeted funds for repairs to docks for this purpose, but in order to repair the private dock, we have requested a permanent easement from the property owner to ensure continued use, necessary liability and other conditions as outlined below are met.

The Easement conditions include but are not limited to the following:

- Perpetual access to enter upon, over, on, under and across the Easement area.
- Owner reserves the right to continue to use the Easement area so long as it is compatible with the District's use.
- Owner will indemnify the District pursuant to the District's standard requirements.

##### *Benefits/Costs*

Monitoring the water level of Lake Arietta in near real-time is of critical importance to the District's water management activities. The repair cost for this dock is \$4,550, which was approved in the FY2020 budget for this purpose.

## Item 15

Staff Recommendation:

- Approve the acceptance of a Non-Exclusive Perpetual Easement; and
- Authorize staff to sign documents at closing necessary to complete the transaction in accordance with the approved terms.

Presenters: Jerry L. Mallams, P.G. Operations and Land Management Bureau Chief and  
Ellen Morrison, Operations and Land Management Assistant Bureau Chief

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**REGULATION COMMITTEE**

**June 23, 2020**

***Consent Agenda***

**WUP No. 20012159.002 / AgrotecHemp / AgrotecHemp Corporation (Marion County)**

This is a renewal with modification of an existing water use permit for agricultural use. The total authorized quantities shown above are an increase from the previous permit. The annual average has increased from 323,740 gallons per day (gpd) to 1,073,400 gpd. The peak month average has increased from 1,157,800 gpd to 1,636,800 gpd. The increases in the authorized annual average and peak month quantities are due to a change in crop type from 240 acres of peanuts to 381 acres of hemp. Quantities are based on the District's allocation program AGMOD and information provided by the applicant.

Special Conditions include those that require the Permittee to begin recording and reporting monthly meter readings, implement the District-approved water conservation plan and submit a report on implementation and new components every five years, and submit meter calibration reports every five years.

**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 012159.002**

**PERMIT ISSUE DATE:** June 23, 2020

**EXPIRATION DATE:** June 23, 2040

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

**TYPE OF APPLICATION:** Renewal

**GRANTED TO:** AgrotecHemp Corporation  
150 North Federal Highway, Suite 200  
Fort Lauderdale, FL 33301

Kenneth, Sr. and Teresa Carroll  
Post Office Box 780  
Dunnellon, FL 34430

**PROJECT NAME:** AgrotecHemp

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

**COUNTY:** Marion

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

ANNUAL AVERAGE	1,073,400 gpd
PEAK MONTH <sup>1</sup>	1,636,800 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 agricultural use. The total authorized quantities shown above are an increase from the previous permit. The annual average has increased from 323,740 gallons per day (gpd) to 1,073,400 gpd. The peak month average has increased from 1,157,800 gpd to 1,636,800 gpd. The increases in the authorized annual average and peak month quantities are due to a change in crop type from 240 acres of peanuts to 381 acres of hemp. Quantities are based on the District's allocation program AGMOD and information provided by the applicant.

Special Conditions include those that require the Permittee to begin recording and reporting monthly meter readings, implement the District-approved water conservation plan and submit a report on implementation and new components every five years, and submit meter calibration reports every five years.

**WATER USE TABLE (in gpd)**

<b><u>USE</u></b>	<b><u>ANNUAL AVERAGE</u></b>	<b><u>PEAK MONTH</u></b>
Agricultural	1,073,400	1,636,800

**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>
Other Crops/Plants	381.00	Drip With Plastic	20.60"/yr.
Other Crops/Plants	381.00	Drip With Plastic	17.30"/yr.

**WITHDRAWAL POINT QUANTITY TABLE**

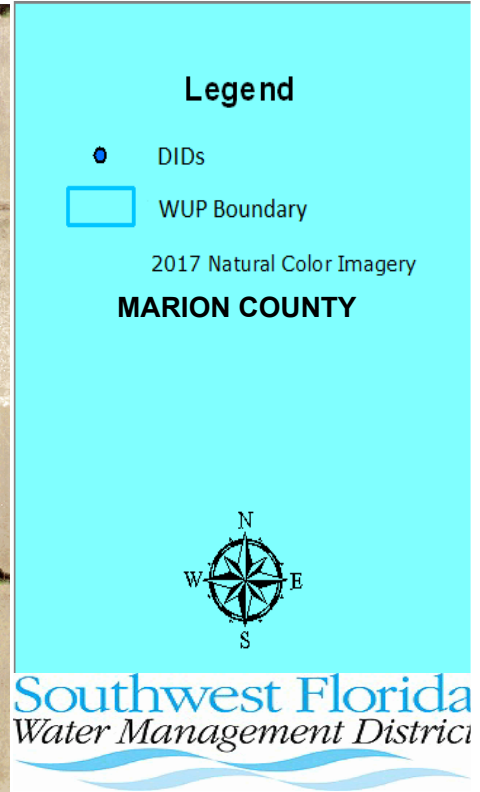
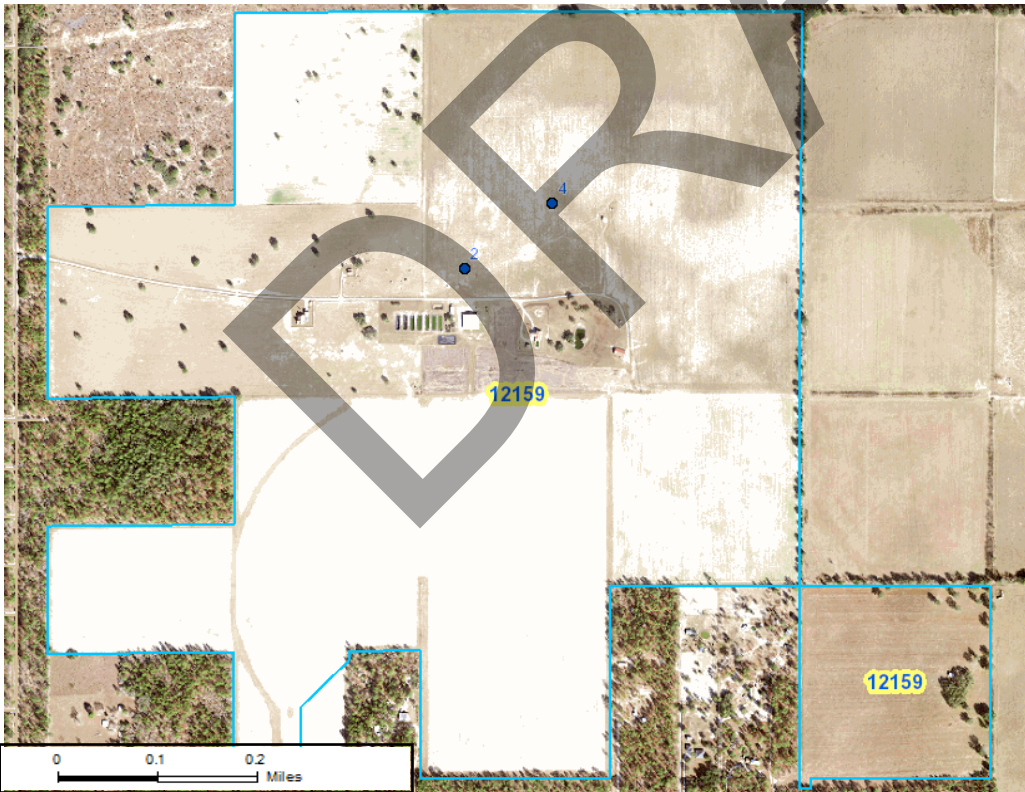
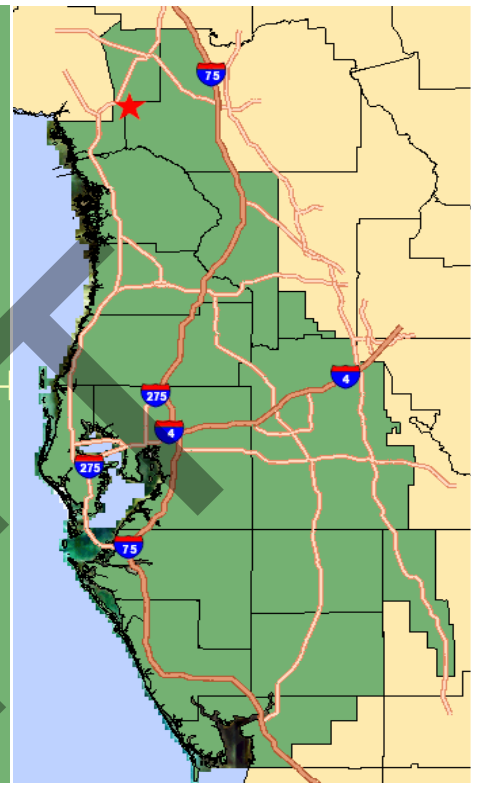
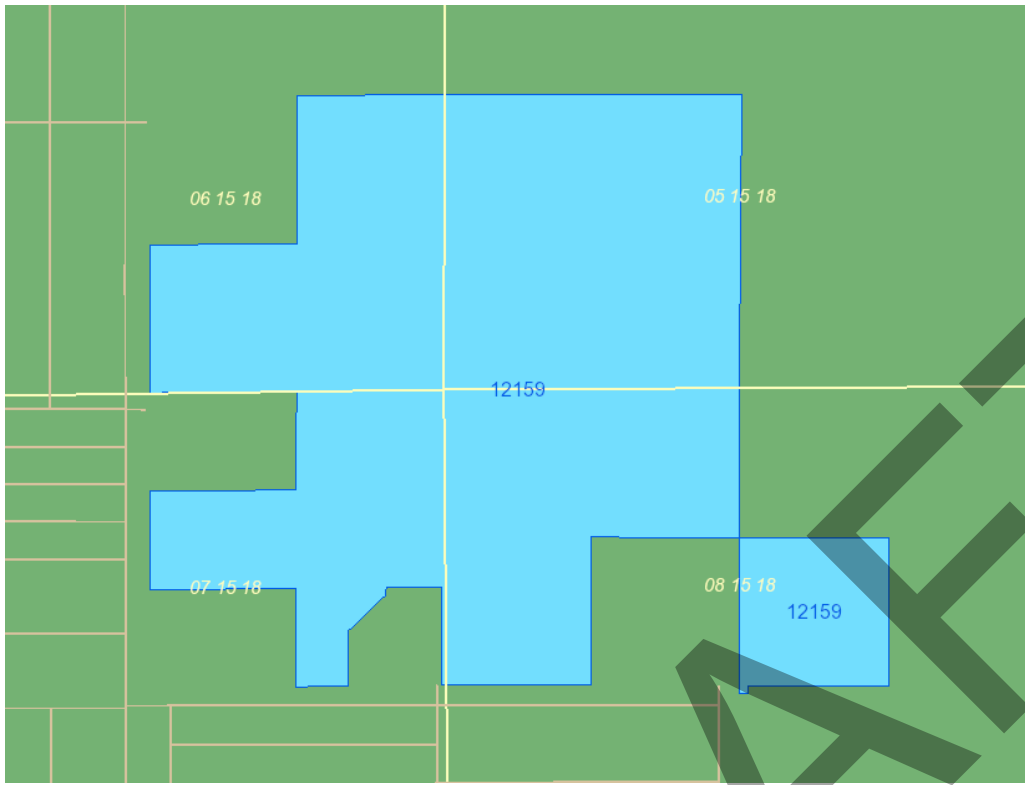
Water use from these withdrawal points are restricted to the quantities given below :

<b><u>I.D. NO.</u></b>	<b><u>PERMITTEE/ 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>
2 / 2		4	UNK / UNK	To Be Capped	N/A	N/A
4 / 4		10	224 / 189	Irrigation	1,073,400	1,636,800

**WITHDRAWAL POINT LOCATION TABLE**

<b><u>DISTRICT I.D. NO.</u></b>	<b><u>LATITUDE/LONGITUDE</u></b>
2	29° 12' 09.26"/82° 31' 07.32"
4	29° 12' 13.80"/82° 31' 00.46"

**Location Map**  
**AgrotecHemp Corporation**  
**WUP No. 20 012159.002**



Attachment: 12159.002 Recap Permit2 (5103 : WUP No. 20012159.002 - AgrotecHemp)

**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 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)
3. 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)
4. 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)
5. 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)
6. 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)
7. The Permittee shall immediately implement the District-approved water conservation plan that was submitted in support of the application for this permit. Conservation measures that the Permittee has already implemented shall continue, and proposed conservation measures shall be implemented as proposed in the plan. 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 June 1, 2025.(449)

8. 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)
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. The Permittee shall comply with allocated irrigation quantities, which are determined by multiplying the total irrigated acres by the total allocated inches per acre per season per actual crop grown. If the allocated quantities are exceeded, upon request by the District, the Permittee shall submit a report that includes reasons why the allocated quantities were exceeded, measures taken to attempt to meet the allocated quantities, and a plan to bring the permit into compliance. The District will evaluate information submitted by Permittees who exceed their allocated quantities to determine whether the lack of achievement is justifiable and a variance is warranted. The report is subject to approval by the District; however, justification for exceeding the allowed withdrawal quantity does not constitute a waiver of the District's authority to enforce the terms and conditions of the permit.(651)
11. The following existing, but previously un-metered withdrawal facilities shall be metered upon permit issuance: District ID No(s). 4, Permittee ID No(s). 4. Monthly meter reading and reporting, as well as meter accuracy checks every five years shall be in accordance with instructions in Exhibit B, Metering Instructions, attached to and made part of this permit.(720)



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 sub

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

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

#### FLOW METER ACCURACY TEST INSTRUCTIONS

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

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

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

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

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

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Authorized Signature

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

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

Attachment: 12159.002 Recap Permit2 (5103 : WUP No. 20012159.002 - AgrotecHemp)

## GENERAL COUNSEL'S REPORT

June 23, 2020

### *Consent Agenda*

**Approval of Consent Order Between SWFWMD and Farrell Homes, Inc. and Van Buren Land Holdings, Inc. – Violation of Permit Conditions for Construction – ERP No. 44033097.000 (EXPIRED) – CT No. 384019 – Pinellas County**

This enforcement matter involves the failure of Farrell Homes, Inc. and Van Buren Land Holdings, Inc. (Permittees), to comply with Environmental Resource Permit No. 44033097.000 (Permit). Permittees failed to comply with the Permit's requirements regarding transfer of the project to the homeowner's association established as the operation and maintenance entity. Additionally, Permittees failed to meet construction conditions established in the Permit.

On April 26, 2019, District staff sent a Notice of Violation informing Permittees that they failed to submit the required documents needed to transfer the project to the operation and maintenance entity. Further, District staff informed the Permittees that an on-site dry detention system regularly holds water for more than 36 hours in violation of Specific Condition 14 of the Permit, and that part of the effluent filtration system is not in compliance with the permitted plans in violation of General Condition 1 of the Permit. The Notice of Violation stated the project must be brought into compliance within 30 days. Despite additional communications between Permittees and District staff, the project was not brought into compliance.

On June 26, 2019, District staff sent a Notice of Violation with a proposed Consent Order to the Permittees. The proposed Consent Order assessed \$6,000.00 in penalties and \$2,700.00 in enforcement costs for a total fine of \$8,700.00. Further, the proposed Consent Order required corrective construction to remedy the defects in the construction of the project. The Permittees rejected the proposed Consent Order.

On July 23, 2019, the District Governing Board authorized issuance of an Administrative Complaint and Order (ACO) against Permittees and any necessary parties to achieve compliance with the Permit. The District staff issued the ACO to James Marcus Vernon, Van Buren Land Holdings, and Farrell Homes (Respondents) on October 11, 2019. On November 5, 2019, the District received Respondents' Petition for an Administrative Hearing in Response to the Administrative Complaint, and the administrative action was submitted to the Division of Administrative Hearings (DOAH).

A hearing was scheduled before DOAH for June 8, 2020. However, in lieu of proceeding to the hearing scheduled before DOAH, Respondent, Van Buren Land Holdings agreed to perform corrective construction to bring the site into compliance with District rules. The terms of the proposed Consent Order (Exhibit A) obligate Van Buren Land Holdings to retain a construction crew and begin construction on a stormwater management system as permitted and approved by the District. The stormwater management system is to be completed within 90 days of approval of the Consent Order by the District's Governing Board. The parties were unable to agree to penalties in the Consent Order, but by acceptance of the Consent Order the District will be able to proceed to circuit court to initiate an action to seek an award of District penalties, costs, and attorneys' fees pursuant to Florida Statute § 373.129.

Staff Recommendation:

- (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.
- (3) Authorize District staff to initiate an action in circuit court to recover penalties, costs, and attorneys' fees for the violations stated in the Consent Order.

Presenter: Elizabeth M. Fernandez, Staff Attorney

BEFORE THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

ORDER NO. SWF 20-

IN RE: NINAVILLE  
VAN BUREN LAND HOLDINGS, INC.  
PERMIT NO. 44033097.000 - EXPIRED  
PINELLAS COUNTY  
CT NO. 384019

CONSENT ORDER

Pursuant to Sections 120.57(4) and 373.083, Florida Statutes (F.S.), this Consent Order is entered into between the Southwest Florida Water Management District (District) and Van Buren Land Holdings, Inc. (Permittee). The Parties to this Consent Order hereby voluntarily agree as follows:

FINDINGS OF FACT

1. The District is the administrative agency of the State of Florida charged with the responsibility to conserve, protect, manage, and control water resources within its boundaries and to administer and enforce Chapter 373, Florida Statutes (F.S.), and the rules promulgated thereunder in Chapter 62-330, Florida Administrative Code (F.A.C.).
2. Permittee applied for and was issued a permit for construction of a project known as Ninaville located in Pinellas County at Section/Township/Range 32/30s/16e (Property).
3. The original permit, Permit No. 44033097.000 (Permit) was issued October 1, 2007.
4. An extension was granted, Permit No. 44033097.001, to extend the Permit's duration until October 1, 2017, but all other terms and conditions of the Permit still apply.
5. At this time, the Permit is expired. No further extensions have been requested or granted.



6. On March 25, 2016 the District received the Permittee's "As-Built Certification and Request for Conversion to Operation Phase" form as well as the "Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity" form. The later requested transfer of the Permit to Eagles Retreat Homeowners' Association, Inc. for purposes of operation and maintenance responsibilities for the stormwater management system.

7. The District did not grant the request to transfer to the operation and maintenance phase of the project at the time because the submission of the Statement of Completion did not include the required signed, dated and sealed as-built drawings in compliance with the Permit.

8. Additionally, at an inspection of the Property, District Staff determined that parts of the stormwater management system are not constructed in substantial conformance with the permitted plans. Specifically, an on-site dry detention system regularly holds water for more than 36 hours after a rainfall in violation of Specific Condition 14, and a control structure that makes up part of the effluent filtration system is not in compliance with the permitted plans in violation of General Condition 1.

9. As of the date of this Consent Order, Permittee has not corrected the construction deviations, nor submitted the required as-built drawings, and the project is not in compliance with the Permit.

#### CONCLUSIONS OF LAW

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

11. The activities described herein in paragraph 2 - 9 constitute a violation of Sections 373.419, and 373.430(1)(b), Florida Statutes (F.S.), as well as 40D-4, 40D-40, and 40D-400, Florida Administrative Code ("F.A.C."), for the failure to submit the appropriate completion report and required documents, and for the failure to comply with the Permit's conditions regarding construction of the stormwater management system.

#### CORRECTIVE ACTIONS

12. In resolution of all disputed issues regarding the activities described herein, the Parties agree to the following corrective actions:

- a. Within 30 days of approval of this Consent Order by the District's Governing Board, Permittee shall retain a construction crew to complete construction of the stormwater management system in substantial conformance with the Permit and the approved reconciliation plans, calculations and narrative as submitted to the District on May 26, 2020, and as approved on May 27, 2020, a copy of which is incorporated herein by reference.
- b. Permittee will contract with said construction crew to assure that construction of the stormwater management system shall be completed within 90 days of approval of this Consent Order by the District's Governing Board.
- c. At least 48 hours prior to the start of construction of the underdrain, Permittee shall provide the District notice, including time and date, of the anticipated start of construction.
- d. Within 120 days of approval of this Consent Order by the District's Governing Board, the Permittee, through its engineer, shall submit to the



District signed, dated, and sealed as-built drawings to include constructed information concerning the site grading, the pond (top and bottom elevations) and effluent filtration system (clean-out locations and pipe size/length/inverts).

- e. Once the above corrective actions have been completed and constructed in a manner that conforms with the work described in paragraph 12(a) above, the District shall complete the transfer of the permit to Eagles Retreat Homeowners' Association, Inc. (the "HOA") pursuant to the "Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity" form. Permittee shall thereafter have no obligations under the permit.

13. As soon as practicable after approval of this Consent Order by the District's Governing Board, the Permittees and their agent James Marcus Vernon will voluntarily dismiss with prejudice their Petition filed in Case No. 20-0580 at the Division of Administrative Hearings.

14. Permittee 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.

15. A delay will be granted and it shall be defined to be good cause in the event the HOA interferes, refuses access or in any other way or manner obstructs the Permittee's completion of the work, or if the HOA takes some action or requires as a condition any work not described in paragraph 12(a) above. In addition to the foregoing,

a delay will be granted and it shall be defined to be good cause in the event the HOA and the Permittee notify the District that they are negotiating modifications and/or revisions to the work described in paragraph 12(a) above which may include, but not be limited to, alternative forms of stormwater treatment, revised specifications or other matters.

16. In the event good cause cannot be shown, for each day of delay beyond any due date specified in this Consent Order, Permittee shall pay to the District an additional sum of two hundred fifty and 00/100 dollars (\$250.00) per day. This additional sum shall be paid by Permittee upon the District's mailing of a demand letter to Permittee 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.

17. This Consent Order is not a license or a permit. Permittee shall not undertake any construction activities other than the work described in paragraph 12(a) above without the necessary District and/or State authorizations.

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

19. Permittee shall allow authorized District representatives to access the Property at all reasonable times without prior notice for the purpose of determining compliance with this Consent Order, Chapter 373, F.S., District rules, and the terms of any permit or restoration plan.

20. 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.

21. Although not seeking assessment of civil penalties, costs, and fees by this Consent Order, the District reserves the right to seek assessment of civil penalties, investigative costs, court costs, and reasonable attorneys' fees in the appropriate court against Permittees and any other party liable for violations as described herein, regardless of whether Permittees comply with the corrective actions set forth in the preceding paragraphs.

22. In the event Permittee fails to completely and timely perform its obligations under this Consent Order, the District retains its right to pursue civil or administrative action for any violations described herein as to any necessary party.

23. The District expressly reserves and retains the right to initiate appropriate legal action against Permittee to prevent or prohibit the future violation of any applicable statutes, rules, orders or permit conditions, except as specifically addressed in this Consent Order. Permittee 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 Permittee 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.

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

25. 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



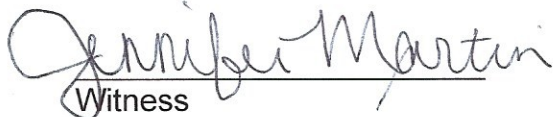
administrative hearing in accordance with Sections 120.569 and 120.57, F.S., and Chapter 28-106, F.A.C. A request for hearing that disputes the material facts on which the District's action is based must contain all elements required by Rule 28-106.201(2), F.A.C., including but not limited to: (1) an 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.

26. 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.

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

**James Marcus Vernon, President**

  
Witness

  
Signature for Van Buren Land Holdings, Inc.  
Date: 5/28/20

Approved by the Governing Board of the Southwest Florida Water Management District  
this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

By: \_\_\_\_\_  
Mark Taylor, Chair

Approved as to Legal Form and Content  
  
\_\_\_\_\_  
Elizabeth M. Fernandez, Esq.  
Office of General Counsel

(SEAL)

Filed this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_ 2019.

Deputy Agency Clerk

CONSENT ORDER  
NINAVILLE  
JAMES MARCUS VERNON  
MICHAEL FARRELL  
PINELLAS COUNTY  
CT NO. 384019

## GENERAL COUNSEL'S REPORT

June 23, 2020

### *Consent Agenda*

#### **Approval of Consent Order Between SWFWMD and Emerson Gibbs – Unauthorized Construction – CT No. 403478 – Charlotte County**

Emerson Gibbs (Property Owner) owns property located at 26001 Zemel Road, Punta Gorda, Florida 33955 (Property). On October 26, 2018, the District received a complaint that unauthorized construction activities were occurring on the Property. On March 26, 2019, District staff conducted a site inspection and observed that the Property Owner excavated a ditch on the Property that was discharging water offsite without proper authorization. District staff also observed additional dredging and filling of the Property had occurred for the creation of an access road. As a result of the inspection and additional investigation, District staff determined that 1.41 acres of uplands and 0.29 acres of wetlands were impacted by unauthorized construction.

On May 21, 2019, and September 4, 2019, District staff issued a Notice of Unauthorized Agricultural Activities to the Property Owner, and a proposed Consent Order was issued on December 19, 2019. The Property Owner provided District staff with a 2008 ecological study that he erroneously believed provided authorization for the activities that occurred at the Property. District staff met with the Property Owner on January 30, 2020, to discuss the 2008 study and options to correct the unauthorized impacts.

The Property Owner subsequently agreed to execute a Consent Order that requires complete restoration of the Property in accordance with a District-approved Corrective Action Plan (Plan). The corrective actions required by the Plan must be completed within 90 days of the Governing Board's approval of the Consent Order. The Consent Order also requires the payment of \$2,000.00 in penalties and District enforcement costs.

#### **Staff Recommendation:**

- (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.

**Presenter:** Allison K. Dhand, Staff Attorney



BEFORE THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

ORDER NO. SWF 20-008

IN RE: EMERSON GIBBS  
26001 ZEMEL ROAD  
CT NO.: 403478  
CHARLOTTE 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 Emerson Gibbs (Owner), 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 Owner owns parcels of real property at 26001 Zemel Road, Punta Gorda, Florida, 33955 located within Section 28, Township 42S, Range 23E, in Charlotte County (Property). The Property is further identified by Parcel ID Numbers 422328101001, 422328151009, and 422328151013 by the Charlotte County Property Appraiser.

3. On October 26, 2018, the District received a complaint stating that construction of drainage alternations was occurring at the Property.

4. On October 29, 2018, District staff conducted an initial site visit at the Property and observed unauthorized construction and excavation of a new drainage ditch.

5. On March 5, 2019 the District issued a Notice of Unauthorized Agricultural Activities to the Owner, concerning the unauthorized activities discussed in paragraph four (4)

Attachment: Gibbs\_CO (5132 : Approval of Consent Order Between SWFWMD and Emerson Gibbs)

herein. The Notice advised the Owner to schedule a site visit and provide a written response of on-site activities performed.

6. District staff met with the Owner at the Property on March 26, 2019 and observed an area of 0.83 acres had been excavated for the drainage ditch, an area of 0.35 acres had been excavated for the creation of a pond, and an additional area of 0.52 acres had been filled without authorization for the creation of an access road (Impacted Area). Approximately 0.15 acres of wetlands were impacted within the Impacted Area as a result of the unauthorized activities. The Impacted Area is identified on the map attached hereto and incorporated by reference as Exhibit "A."

7. A Second Notice of Unauthorized Activities was issued to the Owner on May 21, 2019. The Notice advised the Owner to conduct remedial activities within 30 days of the letter.

8. A Final Notice of Unauthorized Activities was issued to the Owner on September 4, 2019. The Notice advised the owner to conduct remedial activities within 30 days of the letter.

9. As of the date of this Consent Order, a portion of the violations referenced in paragraph six (6) herein have not been corrected and the Property remains 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 four (4) through six (6) 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 four (4) through six (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.

15. The activities described in paragraphs four (4) through six (6) 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 Owner shall not dredge or fill wetlands or other surface waters, or otherwise 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 a District approved Restoration Plan.

17. Nothing in this Consent Order shall prohibit future activities that qualify for an agricultural exemption.

18. Within ninety (90) days of this Consent Order's approval by the District's Governing Board, the Owner shall submit to the District a proposed Restoration Plan to restore the Impacted Area to its pre-impact condition. At a minimum proposed Restoration Plan must provide for the restoration of the Impacted Area to its pre-impact condition as shown in Exhibit A.

19. The Owner shall comply with any District requests for additional information or clarification within the time frame specified in the requests. The Owner shall obtain District approval of the Restoration Plan as expeditiously as possible and, in any event, no later than one hundred eighty (180) days after submission of the proposed Restoration Plan.

20. The Owner shall coordinate to allow District staff to be present on the first day of construction activities to ensure that the wetland areas will not be over or under excavated. Thereafter, District staff shall inspect the Property monthly to ensure progress and compliance while construction is ongoing.

21. The Owner shall complete all work required by the Restoration Plan within ninety (90) days of approval. If, upon inspection of the Property after construction authorized by the Restoration Plan is complete, the District discovers any deviations from the approved Restoration Plan or violations of District rules, the Owner shall perform any necessary remedial work within thirty (30) days of issuance of written notification by the District.

22. The Owner shall pay to the District Two Thousand Dollars (\$2,000.00) in assessed penalties and costs by certified check or money order within ten (10) days of this Consent Order's approval by the District's Governing Board. If mailed, the address for payment is:

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

23. The Owner 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 Owner hereby waives any right to an administrative hearing or judicial review of the terms of this Consent Order. The Owner 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 Owner 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 Owner 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 Owner to prevent or prohibit the future violation of any applicable statutes, rules, or orders, except as specifically addressed in this Consent Order. The Owner 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 Owner 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 Owner shall not undertake any further construction activities without necessary District authorizations.

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

29. The Owner shall allow authorized District representatives to access the Property at all reasonable times with 24-hours advance 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: Emerson Gibbs  
EMERSON GIBBS

Date: 5/1/20

Approved by the Governing Board of the Southwest Florida Water Management District  
this \_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_  
Mark Taylor, Chair

Approved as to Legal Form and Content  _____ Allison Dhand, Staff Attorney
----------------------------------------------------------------------------------------

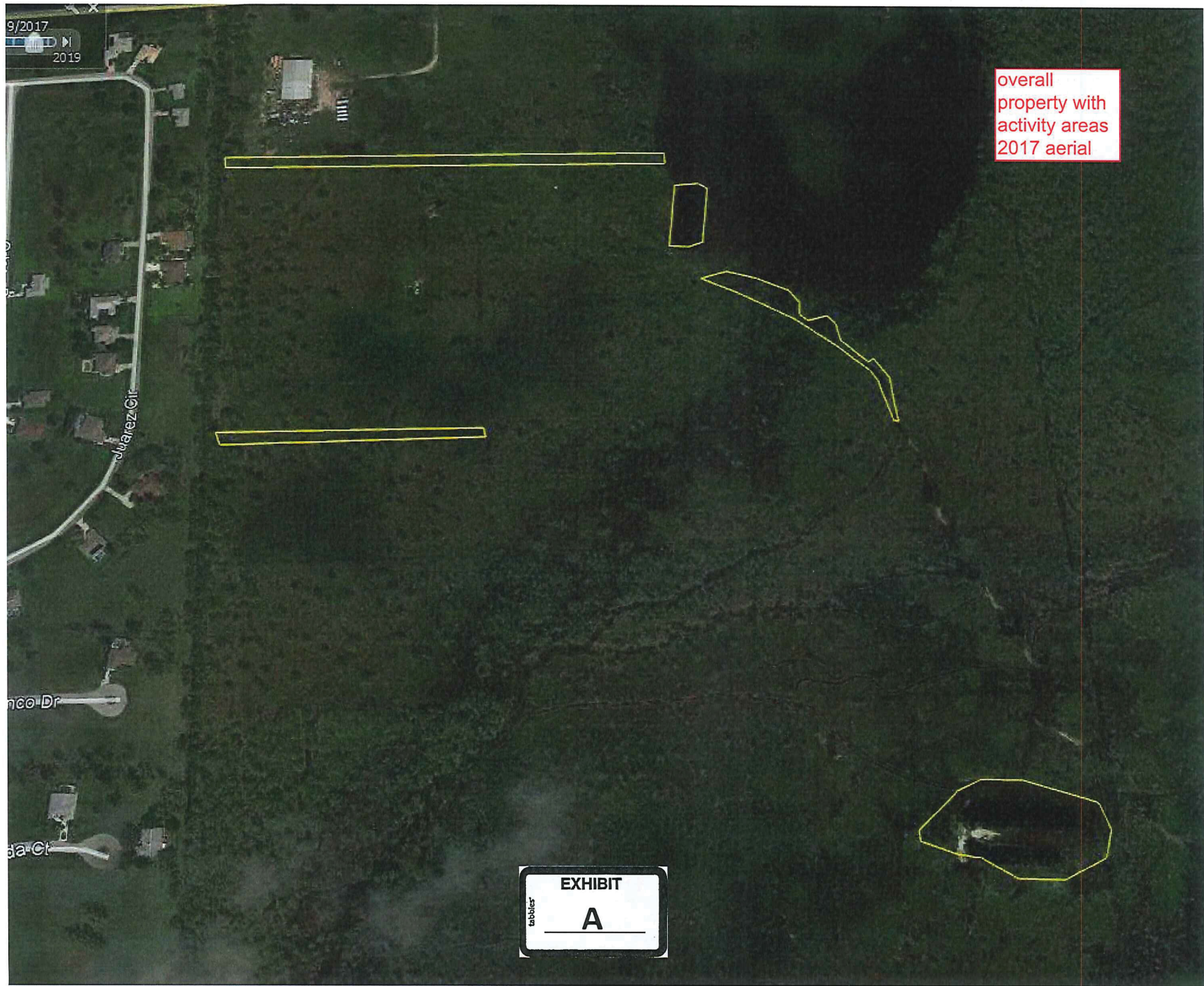
Filed this \_\_\_\_ day of \_\_\_\_\_ (Seal)  
\_\_\_\_\_, 2020.

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

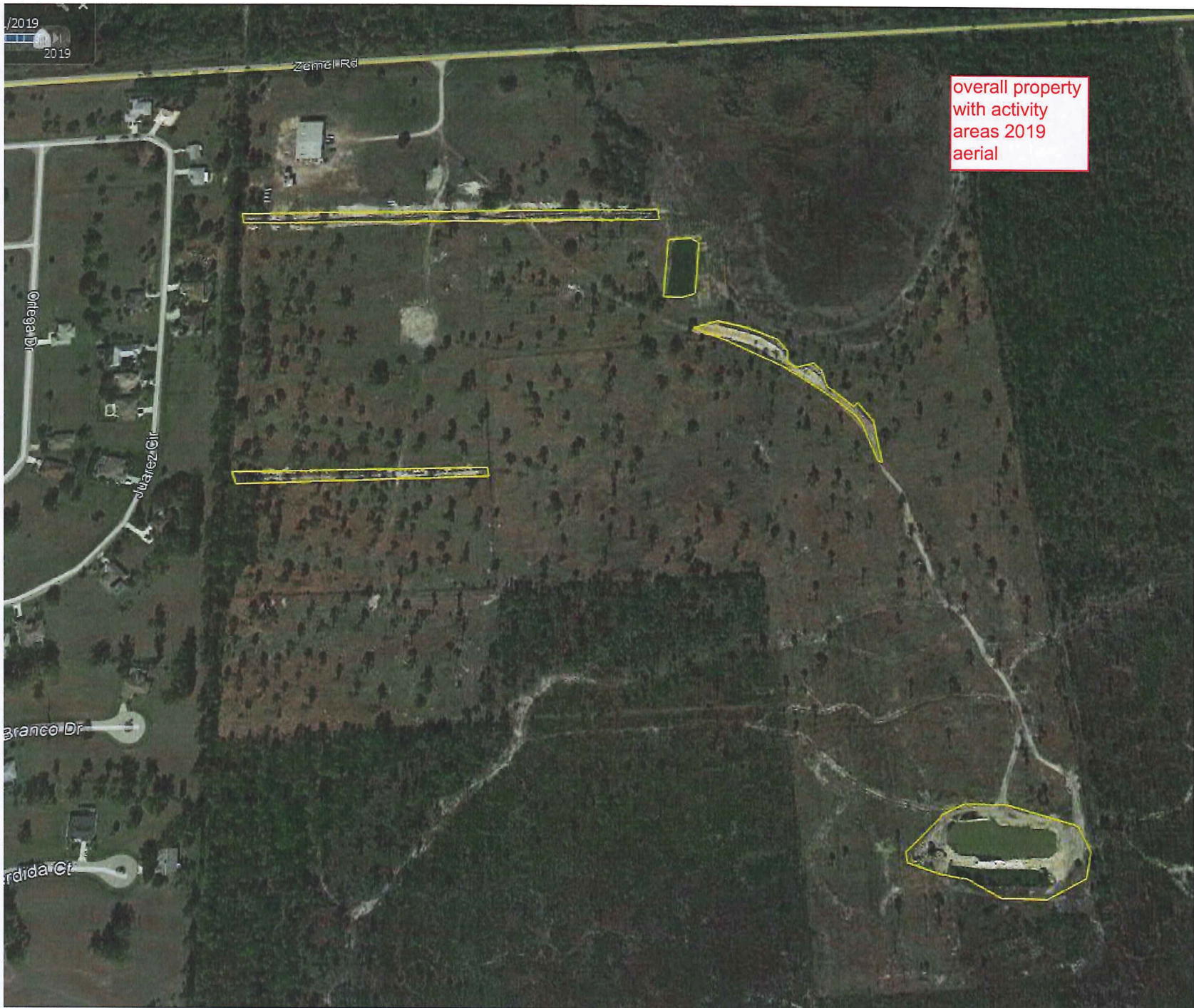
CONSENT ORDER  
26001 ZEMEL ROAD  
CT NO.: 403478  
CHARLOTTE COUNTY, FLORIDA

Attachment: Gibbs\_CO (5132 : Approval of Consent Order Between SWFWMD and Emerson Gibbs)

























## GENERAL COUNSEL'S REPORT

June 23, 2020

### *Consent Agenda*

#### **Approval of Consent Order Between SWFWMD and Etcetera, Etc., Inc. – Operation Without a Permit – ERP No. 404221.01 – CT No. 380718 – DeSoto County**

On May 17, 1989, the District issued Permit No. 404221.01 (Permit) to Pembroke Land Development, Inc. (Pembroke) for the construction of a surface water management system designed to serve an 84.970-acre mixed-use residential and golf course subdivision in DeSoto County (Project). The surface water management system was designed to convey surface water runoff through an interconnected system of wetlands, lakes, and pipes located on the residential parcels and golf course tracts located within the Project boundaries.

On September 10, 2015, District staff inspected the Project in response to a complaint from DeSoto County that the system was not functioning properly. The site inspection revealed several deviations from the approved surface water management system construction plans and that Etcetera, Etc., Inc. (Etcetera), had obtained ownership of the golf course portion of the Project. The District issued a Notice of Permit Condition Violation to Etcetera advising that Etcetera was operating the surface water management system without a permit and that the construction deviations must be corrected to bring the Project into compliance. The Parties engaged in discussions to resolve the compliance issues but were unable to come to an agreement prior to further enforcement action.

On September 20, 2019, District staff issued an Administrative Complaint and Order to Etcetera to resolve the compliance issues. The Administrative Complaint and Order became final agency action, and the District initiated an action against Etcetera in circuit court to obtain compliance with the Permit and recover a civil penalty. Shortly after filing the complaint, the Parties re-engaged in settlement discussions in order to avoid further litigation or enforcement action. On March 25, 2020, Etcetera submitted to the District a proposed Action Plan identifying deficient surface water management system structures and providing for the action required to correct each deficiency. District staff approved the Action Plan on April 15, 2020.

Etcetera agreed to a Settlement Agreement following District staff approval of the Action Plan. The Settlement Agreement provides for the initial payment of \$8,869.00 and requires Etcetera to complete all required actions identified in the Action Plan within 90 days of the Governing Board's approval of the Settlement Agreement. If Etcetera fails to perform the obligations set forth in the Settlement Agreement, an additional sum of \$5,000.00 will become due immediately. The District will voluntarily dismiss the pending circuit court action upon Etcetera's timely performance of the obligations in the Settlement Agreement.

#### **Staff Recommendation:**

- (1) Approve the Settlement Agreement
- (2) Authorize District staff to pursue additional enforcement measures to obtain compliance with the terms and conditions of the Settlement Agreement, including filing any appropriate actions in circuit court, if necessary.

**Presenter:** Christopher A. Tumminia, Deputy General Counsel



## **SETTLEMENT AGREEMENT**

This Settlement Agreement (Agreement) is made and entered into by and between the Southwest Florida Water Management District (District) and Etcetera, Etc., Inc. (Etcetera). The District and Etcetera may be referred to herein individually as “Party” and collectively as the “Parties.”

### **RECITALS**

1. The District is a public corporation of the State of Florida operating pursuant to Chapter 373, Florida Statutes (F.S.), as a multi-purpose water management district, with its principal office located at 2379 Broad Street, Brooksville, Florida 34604. The District is 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 Chapters 40D-4, 40D-40, and 62-330, Florida Administrative Code (F.A.C.).

2. Etcetera is an active corporation registered to conduct business in the State of Florida, having a principal address of 2112 South U.S. Highway 1, #201, Fort Pierce, Florida 34950 and a mailing address of 115 Stuyvesant, Asheville, North Carolina, 28803.

3. Etcetera is the owner of real property identified by the DeSoto County Property Appraiser as Parcel Nos. 31-39-23-0283-0000-00A0, 31-39-23-0283-0000-00B0, and 31-39-23-0283-0000-00C0, in DeSoto County, Florida (Property). The Property owned by Etcetera may also be referred to herein as the “Golf Course Tracts.”

4. On May 17, 1989, the District issued General Management of Surface Water Permit No. 404221.01 (Permit) to Pembroke Land Development, Inc., authorizing the construction of a surface water management system designed to serve a

mixed-use residential subdivision and golf course (Project). The surface water management system for the Project was designed to convey surface water runoff through an interconnected system of wetlands, lakes, and pipes located on the residential parcels and Golf Course Tracts within the Project boundaries.

5. On September 10, 2015, District staff inspected the Project and discovered that Pembroke Land Development no longer owned the Property. District staff then determined that Etcetera was operating the surface water management system without an Environmental Resource Permit. Additionally, District staff observed several deviations from the approved surface water management system construction plans.

6. On September 20, 2019, the District issued an Administrative Complaint and Order to Etcetera pursuant to section 373.119, F.S.. The Administrative Complaint and Order required Etcetera to correct the construction deviations and obtain an ERP from the District to operate and maintain the surface water management system on the Property. Etcetera did not request a hearing pursuant to Chapter 120, F.S., and the Administrative Complaint and Order became final agency action on October 9, 2019.

7. On January 15, 2020, the District filed a Petition for Enforcement and Complaint for Civil Remedies against Etcetera in DeSoto County Circuit Court, which is further identified as Case No. 2020-CA-000017.

8. On March 25, 2020, Etcetera submitted to the District a proposed Action Plan identifying deficient surface water management system structures and providing for the action required to correct each deficiency. The proposed Action Plan is attached hereto and incorporated herein by reference as **Exhibit A**. District staff approved the Action Plan on April 15, 2020.

9. The Parties deem it in their best interests and in the public interest to enter into this Settlement Agreement, which is intended to memorialize the terms of their compromise and reach a resolution of this matter pursuant to the terms set forth below

### **TERMS OF SETTLEMENT AGREEMENT**

NOW, THEREFORE, in consideration of the terms and conditions defined herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

10. The foregoing preamble and recitals are true, correct, and integral parts of this Agreement.

11. This Agreement shall be effective on the date last executed by the Parties. The Parties agree that this Agreement is contingent upon its approval by the District's Governing Board. If this Agreement is not approved by the District's Governing Board, nothing herein shall be deemed a representation or admission by any Party as to any issue and this Agreement shall be deemed null and void and of no legal effect.

12. In settlement of the matters described in this Settlement Agreement, the District shall assess a penalty and enforcement costs in the amount of \$13,869.00 for the violations described herein. Within ten (10) days of approval of this Settlement Agreement by the District's Governing Board, Etcetera shall make an initial payment to the District of \$8,869.00. If mailed, the address for payment is:

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

13. Within ninety (90) days of approval of this Settlement Agreement by the District's Governing Board, Etcetera shall complete all required actions identified in the

approved Action Plan. Within five (5) days following completion of all required actions, Etcetera shall notify the District that the work was completed. District staff shall be permitted to inspect the Property to verify compliance with the approved Action Plan. If District staff discover deviations from the approved Action Plan or any other violation of Chapter 373, F.S. or District rules, within the approved Action Plan identified project limits, Etcetera shall perform any necessary remedial work within thirty (30) days of issuance of written notification by the District. Within five (5) days following completion of the remedial work, Etcetera shall notify the District that the remedial work was completed. Actions undertaken by the Pembroke Subdivision HOA (or individual lot owners) or DeSoto County in violation of Chapter 373, F.S. or District rules, are not addressed within this Agreement.

14. Within fourteen (14) days following the District's written verification of compliance with the approved Action Plan, Etcetera shall submit to the District a Notification and Request for Transfer of Environmental Resource Permit form identifying the Operation and Management (O&M) Entity for the surface water management system. The District must approve the transfer in writing before the transfer of responsibility to the O&M Entity is effective. Completion of Paragraph 14 shall establish that the identified O&M Entity has the legal ability to access, monitor, operate, and maintain the entire surface water management system in accordance with the applicable statutes and rules of the District.

15. Upon completion of the activities listed in Paragraphs 13 and 14 herein, the District shall waive the remaining \$5,000.00 assessed penalty. Etcetera's failure to comply with Paragraphs 13 and 14 herein shall result the remaining \$5,000.00 assessed

penalty becoming immediate due upon the District's written demand and shall constitute a breach of this Settlement Agreement.

16. The District shall file with the DeSoto County Circuit Court a Notice of Voluntary Dismissal with Prejudice of Case No. 2020-CA-000017 within five (5) days of receipt of the Notification and Request for Transfer of Environmental Resource Permit form described in Paragraph 14 herein. Each Party shall bear its own costs, including attorneys' fees, incurred in connection with DeSoto County Circuit Court Case No. 2020-CA-000017 and the development of this Agreement, except as specifically provided for in this Settlement Agreement.

17. Etcetera may apply in writing to the District for an extension of the time limits contained in this Settlement Agreement 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; such as acts of God (e.g., violence natural disaster) or civil disturbances (e.g., Covid-19 related disturbances) preventing Etcetera from completing the requirements within the specified time frame.

18. For each day of delay beyond any due date specified in this Settlement Agreement, the O&M Entity identified in response to Paragraph 14's requirements shall pay to the District an additional sum of \$100.00 per day. This additional sum shall be paid by the O&M Entity upon the District's issuance 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.

19. Entry of this Settlement Agreement shall not relieve the identified O&M Entity of the duty to comply with all applicable federal, state, and local laws, regulations,

and ordinances, and it does not obviate the necessity of obtaining any other applicable authorizations necessary to perform the activities described herein.

20. The terms and conditions set forth in this Settlement Agreement may be enforced in a court of competent jurisdiction.

21. Etcetera hereby waives any right to an administrative hearing or judicial review of the terms of this Settlement Agreement.

22. The District hereby expressly reserves and retains the right to initiate appropriate legal action against Etcetera to prevent or prohibit the future violation of any applicable statutes, rules, or orders, except as specifically addressed in this Settlement Agreement.

23. For and in consideration of the complete and timely performance by Etcetera of the obligations under this Settlement Agreement, the District waives its right to pursue civil or administrative action for any violations described in this Settlement Agreement. In the event that Etcetera fails to completely and timely perform the obligations under this Settlement Agreement, the District retains the right to pursue civil or administrative action for any violations described herein.

24. No modifications of the terms of this Settlement Agreement shall be effective until reduced to writing and executed by all the Parties.

IN WITNESS WHEREOF, the Southwest Florida Water Management District and Etcetera, Etc., Inc., have executed this Settlement Agreement on the day and year set forth with their signatures below.



**Etcetera, Etc., Inc.**

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Approved by the Governing Board of the Southwest Florida Water Management  
District this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_  
Mark Taylor, Chair

Approved as to Legal Form and Content

\_\_\_\_\_  
Chris Tumminia, Esq.  
Deputy General Counsel

(SEAL)

Filed this \_\_\_\_\_ day of  
\_\_\_\_\_ 2020.

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

*ETCETERA, ETC., INC.*  
ERP NO. 404221.01 – CT NO. 380718  
DESOTO COUNTY, FLORIDA

Attachment: Exhibit - June 2020 - Etcetera\_SA (5127 : Approval of Consent Order Between SWFWMD and Etcetera, Etc., Inc.)

## EXHIBIT A

### PEMBROKE SUBDIVISION

MSSW No. 40004221.01/CT No. 380718

### SWFWMD Management of Surface Water(MSW) System NOV Revised Action Items

#### MSW SWFWMD Identified Deficient Structures

##### Structure No. 2

See attached Sheet 10 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe and inlets need to be verified. See attached Photo No. 2. Both the pipe and the inlets exist. Action Required: Minor cleaning around structure and re-certify that existing structure functions as designed.

##### Structure No. 3

See attached Sheet 11 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Could not detect if inlet is functioning in this location due to apparent collapse. See attached Photo No. 3. Action Required: Repair inlet and certify that repaired inlet structure functions as designed.

##### Structure No. 4

See attached Sheet 11 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Manhole cover found, but inlet could not be confirmed due to apparent collapse. See attached Photo No. 4. The inlet is present and there is a hole next to inlet. Action Required: Repair inlet and certify that repaired inlet structure functions as designed.

##### Structure No. 6

See attached Sheet 11 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe needs to be verified. See attached Photo No. 6. Pipe does exist. Action Required: Remove excess vegetation in front of pipe and re-certify that existing structure functions as designed.

##### Structure No. 7

See attached Sheet 12 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe needs to be verified. See attached Photo No. 7. The manhole covers for the pipe and inlet are existing. Action Required: Re-certify that existing structure functions as designed.

**Structure No. 12**

See attached Sheet 13 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Could not locate structure. See attached Photo No. 12. Action Required: Clear heavy vegetation and locate structure. Re-certify that existing structure functions as designed.

**Structure No. 14**

See attached Sheet 13 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Could not locate due to water level; need to verify condition. Action Required: Confirm pipe is in place and repair if necessary. Re-certify that existing or repaired structure functions as designed.

**Structure No. 15**

See attached Sheet 14 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Need to verify pipe. See attached Photo No. 15. This pipe is present but needs removal of vegetative growth in front of pipe inlet. Action Required: Remove excess vegetation and re-certify that existing structure functions as designed.

**Structure No. 16**

See attached Sheet 14 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Need to verify pipe. See attached Photo No. 16. This pipe is present but needs removal of vegetative growth in front of pipe inlet. Action Required: Remove excess vegetation, confirm pipe still functions, and re-certify that existing structure functions as designed.

**Structure No. 17**

See attached Sheet 14 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Need to verify pipe. See attached Photo No. 17. This pipe is present but needs removal of vegetative growth in front of pipe inlet. Action Required: Remove excess vegetation and re-certify that existing structure functions as designed.

**Structure No. 18**

See attached Sheet 14 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Corroded pipe. See Picture No. 18. The pipe has partially collapsed on one side due to corrosion and rust but appears to still function as design. Action Required: Confirm pipe still functions and re-certify that existing structure functions as designed.

**Structure No. 20**

See attached Sheet 14 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Need to be verified. See attached Photo No. 20. The manholes covers are in good condition but need to verify the inlets and pipes still function. Action Required: Confirm inlets and pipes in place and functioning and re-certify that existing structure functions as designed.

**Structure No. 21**

See attached Sheet 14 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe needs to be verified. See attached Photo No. 21. The pipe is not visible due to overgrowth. Action Required: Remove excess vegetation and re-certify that existing structure functions as designed.

**Structure No. 23**

See attached Sheet 15 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe; needs to be verified. The pipe is not visible due to overgrowth and water level. Action Required: Remove excess vegetation and re-certify that existing structure functions as designed.

**Structure No. 24**

See attached Sheet 15 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Initial field reviews were unable to locate weir. See Photo Nos. 24 a and b. The weir is in place and operational. Action Required: Re-certify that existing outfall structure functions as designed.

**Structure No. 26**

See attached Sheet 16 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe and swale need to be verified. See attached Photo No. 26. The pipe is present but overgrown. Action Required: Remove excess vegetation and re-certify that repaired structure functions as designed.

**Structure No. 27**

See attached Sheet 16 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe and inlet need to be verified. See attached Photo No. 27. The inlet is present but overgrown. Action Required: Remove excess vegetation around inlet and re-certify that repaired structure functions as designed.

### **Structure No. 28**

See attached Sheet 16 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe needs to be verified. See attached Photo No. 28. The pipe is present but badly eroded. Action Required: Replace pipe and re-certify that repaired structure functions as designed.

## **Homeowner Controlled MSW SWFWMD Identified Deficient Structures**

### **Structure No. 1**

See attached Sheet 9 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe and inlets need to be verified. See attached Photo No. 1. Action Required: Obtain authorization to perform work on land controlled by homeowners with the assistance of the SWFWMD. Locate pipe and inlets and re-certify that existing structure functions as designed. As well as, SWFWMD's assistance on establishing a HOA requiring all homeowners to participate in the long-term maintenance of repaired and all re-certified structures.

### **Structure No. 13**

See attached Sheet 13 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Area under water and subsided; could not locate junction box. See attached Photo No. 13. The structure is there but has collapsed and not visible at this time. Action Required: Obtain authorization to perform work on land controlled by homeowners with the assistance of the SWFWMD. Locate and repair junction box; and, re-certify that existing structure functions as designed. As well as, SWFWMD's assistance on establishing a HOA requiring all homeowners to participate in the long-term maintenance of repaired and all re-certified structures.

### **Structure No. 25**

See attached Sheet 16 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. See attached Photo No. 25. The manhole inlet is visible, but the inlet pipes need to be verified. Action Required: Obtain authorization to perform work on land controlled by homeowners with the assistance of the SWFWMD. Locate inlet pipes, repair if needed, and re-certify that the existing or repaired structure functions as designed. As well as, SWFWMD's assistance on establishing a HOA requiring all homeowners to participate in the long-term maintenance of repaired and all re-certified structures.

## **DeSoto County Controlled MSW SWFWMD Identified Deficient Structures**

### **Structure No. 5**

See attached Sheet 11 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Inlet and pipes appear collapsed, worst structure condition within the Pembroke Subdivision. See attached Photo No. 5. Action Required: Obtain authorization to perform work on land controlled by Desoto County with the assistance of the SWFWMD. Repair pipe and inlets and re-certify that existing structure functions as designed, such that DeSoto County will maintain those structures within the ROW consistent with the requirements of SWFWMD Permit No. 404221.01.

### **Structure No. 8**

See attached Sheet 12 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe needs to be verified. See attached Photo No. 8. The pipe is barely visible due to overgrowth and water levels. Action Required: Obtain authorization to perform work on land controlled by Desoto County with the assistance of the SWFWMD. Remove excess vegetation and re-certify that existing structure functions as designed, such that DeSoto County will maintain those structures within the ROW consistent with the requirements of SWFWMD Permit No. 404221.01.

### **Structure No. 9**

See attached Sheet 13 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe needs to be verified. See attached Photo 9. Action Required: Obtain authorization to perform work on land controlled by Desoto County with the assistance of the SWFWMD. Remove excess vegetation and re-certify that existing structure functions as designed, such that DeSoto County will maintain those structures within the ROW consistent with the requirements of SWFWMD Permit No. 404221.01.

### **Structure No. 10**

See attached Sheet 13 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. See attached Photo No. 10. Need to verify the pipe. The pipe does exist and located within the ROW. Action Required: Obtain authorization to perform work on land controlled by Desoto County with the assistance of the SWFWMD. Remove excess vegetation in front of pipe and re-certify that existing structure functions as designed, such that DeSoto County will maintain those structures within the ROW consistent with the requirements of SWFWMD Permit No. 404221.01.



**Structure No. 11**

See attached Sheet 13 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Pipe needs to be verified. See attached Photo No. 11. The pipe does exist. Action Required: Obtain authorization to perform work on land controlled by Desoto County with the assistance of the SWFWMD. Remove excess vegetation in front of pipe and re-certify that existing structure functions as designed, such that DeSoto County will maintain those structures within the ROW consistent with the requirements of SWFWMD Permit No. 404221.01.

**Structure No. 19**

See attached Sheet 14 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Area around pipe and inlet is collapsing. See attached Photo No. 19. Action Required: Obtain authorization to perform work on land controlled by Desoto County with the assistance of the SWFWMD. Repair pipe and inlet and certify that repaired structure functions as designed, such that DeSoto County will maintain those structures within the ROW consistent with the requirements of SWFWMD Permit No. 404221.01.

**Structure No. 22**

See attached Sheet 15 of 37; Spectra Engineering and Surveying, Inc.'s As-Built for structure location within Pembroke Subdivision. Inlet and pipe need to be verified. See attached Photo No. 22. The inlets on both side of road are in place. Action Required: Obtain authorization to perform work on land controlled by Desoto County with the assistance of the SWFWMD. Remove excess vegetation in front of pipe and inlet and re-certify that existing structure functions as designed, such that DeSoto County will maintain those structures within the ROW consistent with the requirements of SWFWMD Permit No. 404221.01.

## GENERAL COUNSEL'S REPORT

June 23, 2020

### *Consent Agenda*

#### **Authorization to Issue Administrative Complaint and Order – Well Construction Violations – Carl Douglas, Jr. – License Number 9127 – CT No. 409162 – Highlands, Polk, and Hardee Counties**

Carl Douglas, Jr. (Douglas) is a licensed water well contractor holding License No. 9127 (License), whose mailing address is 2404 Greenleaf Road, Zolfo Springs, FL 33890. Mr. Douglas operates Douglas Well Drilling, LLC, and conducts business under that name.

Douglas has violated District Order No. SWF 19-032 (District Order), which was issued by this Governing Board and rendered as a final order on November 26th, 2019. The District Order required that Douglas perform certain corrective actions and pay penalties as required in the "Water Well Contractor Disciplinary Guidelines and Citation Dictionary." Douglas has failed to comply with the District's order for corrective actions. Additionally, Douglas has not paid penalties as ordered. To enforce the District Order, the District's Office of General Counsel initiated litigation in Case No. 20000112CA pending in the Twentieth Judicial Circuit for Charlotte County.

The District Order also added new observation requirements over Douglas's well construction business. The District Order required Stipulation #48 - Well Construction Notification be appended to all permits pulled by Douglas. The stipulation states the following: "The contractor shall notify the District 24 hours prior to the start of construction of this well." On five separate occasions, Douglas has failed to comply with this observation requirement. In each case mentioned below, Douglas failed to notify the District prior to commencing construction of the water wells.

- On December 16, 2019, Well Construction Permit (WCP) No. 884920 was issued authorizing the construction of a 4-inch diameter domestic water well. On January 13, 2020, a Well Completion Report was submitted stating that construction of this well was completed on December 20, 2019.
- On January 14, 2020, WCP No. 885571 was issued authorizing the construction of a 4-inch diameter domestic water well. On January 31, 2020, a Well Completion Report was submitted stating that construction of this well was completed on January 17, 2020.
- On February 6, 2020, WCP No. 886360 was issued authorizing the construction of a 4-inch diameter domestic water well. On February 18, 2020, a Well Completion Report was submitted stating that construction of this well was completed on February 11, 2020.
- On February 13, 2020, WCP No. 886563 was issued authorizing the construction of a 4-inch diameter domestic water well. On April 4, 2020, District staff conducted a site visit at the permit site and observed ongoing well construction on the property.
- Lastly, on March 5, 2020, WCP No. 887246 was issued authorizing the construction of a 4-inch diameter domestic water well. On April 3, 2020, District staff conducted a site visit at the permit site and observed ongoing well construction on the property.

Pursuant to the "Water Well Contractor Disciplinary Guidelines and Citation Dictionary," for the current violations Douglas should be assessed 32 points against his license and should pay a total of \$6,000.00 in fines. Further, as Douglas currently has 18 points assessed to his license, with the additional assessment of 32 points for the latest violations, Douglas's license will be revoked for a minimum of one year.

The District issued a new Notice of Violation for the failure to comply with Stipulation #48, and to attempt to resolve the pending litigation. Douglas has failed to respond to the Notice of Violation, and District staff now seek authorization to issue a new Administrative Complaint and Order encompassing the latest violations.

Staff Recommendation:

- (1) Authorize District staff to issue an Administrative Complaint and Order to Carl Douglas, Jr. to recover an administrative fine/civil penalty, and recover any District costs and fees, if appropriate.
- (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.

Presenter: Elizabeth M. Fernandez, Staff Attorney

## GENERAL COUNSEL'S REPORT

June 23, 2020

### *Consent Agenda*

#### **Authorization to Issue Administrative Complaint and Order – Unauthorized Construction – Abdelijalil and Cindy Lou Bekkach – 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.

The District issued the Owners a Notice of Violation on October 4, 2016 concerning the activities that occurred at the Property without an ERP. The Notice advised that the activities did not qualify for an agricultural exemption and that any regulated activity undertaken at the Property without an ERP could result in monetary penalties and further enforcement action if not corrected in a timely manner. District staff initiated further attempts to contact the Owners to resolve the violations without further enforcement action. After these efforts were unsuccessful, the District issued a Second Notice of Violation to the Owners on August 6, 2019 but received no response.

District staff eventually contacted the Owners and conducted a site visit at the Property on February 26, 2020. 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. Following the site visit, the Owners have not contacted the District regarding the violations, and the Property remains in noncompliance.

#### **Staff Recommendation:**

- (1) Authorize District staff to issue an Administrative Complaint and Order to the Owners 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 against the Owners to recover a civil penalty/administrative fine, enforcement costs, litigation costs, and attorneys' fees, if appropriate.

**Presenter:** Megan Albrecht, Staff Attorney

## GENERAL COUNSEL'S REPORT

June 23, 2020

### *Consent Agenda*

#### **Approval of Declaration of Restrictive Covenant – Tampa Bypass Canal Land Fill Site – SWF Parcel Nos. 114 (13-001), 125 (13-001), and 126 (13-001) – Hillsborough County**

The District owns three parcels of contiguous real property in Hillsborough County known as the Tampa Bypass Canal Landfill Site (together referred to as the “Property”). The Property was formerly operated as a general refuse landfill for approximately 10 years from 1956 to 1965, and the District purchased the Property in 1968. During construction of the Tampa Bypass Canal in the 1970s, dredging occurred in the vicinity of the Property. In 1983, shoreline erosion exposed buried landfill materials on the Property. In June 1997, the District retained HSA Engineers and Scientists (HSA) to develop a voluntary cleanup plan and prepare a Contamination Assessment Report (Report) for submission to the Florida Department of Environmental Protection (FDEP). The Report documented the presence of volatile organic compounds (VOCs) and base/neutral and acid extractable compounds (BNAs) in the soil and groundwater at the Property. Polychlorinated biphenyls (PCBs) would later be detected during semiannual groundwater monitoring. In March 2002, the District submitted its final Report to FDEP, which included a remedy involving a “sheet pile” retaining wall to prevent exposed landfill material from coming into contact with the surface waters of the Tampa Bypass Canal. The District commenced construction on the Property in 2003 to excavate landfill debris and maintained the semiannual groundwater monitoring program, regularly reporting to FDEP, from 2004 through 2011.

Following successful implementation of a voluntarily developed cleanup plan, FDEP issues Site Rehabilitation Completion Orders that may include institutional controls to reduce or eliminate risk of exposure to contaminants or to eliminate the threat of contaminant migration. These institutional controls are implemented through recording a Declaration of Restrictive Covenants on the area of the Property where contamination was located (Restricted Property).

In this instance, FDEP has agreed to issue a Site Rehabilitation Completion Order with Conditions for the Property. However, FDEP requires a Declaration of Restrictive Covenants and access easement to be recorded on the Property as a condition for issuing the Site Rehabilitation Completion Order. The institutional controls established in the Declaration of Restrictive Covenants include:

- A prohibition on groundwater use;
- A prohibition on constructing groundwater wells;
- A requirement to obtain FDEP authorization to conduct any dewatering activities;
- A prohibition on stormwater swales, stormwater detention or retention facilities, or ditches
- A requirement to permanently cover and maintain the Restricted Property with a minimum of two (2) feet of clean and uncontaminated soil;
- A requirement that a soil cap and retaining wall (Engineering Control) be implemented; and

- A requirement that an Engineering Control Maintenance Plan (ECMP) be approved by FDEP.

The District does not conduct any activities on the Property that are prohibited by the Declaration of Restrictive Covenants. Furthermore, the District has already implemented the required Engineering Controls and obtained approval of the ECMP for the site. Accordingly, District staff recommend approval of the Declaration of Restrictive Covenants for the Property to allow the District to proceed with obtaining the Site Rehabilitation Completion Order.

Staff Recommendation:

Approve the Declaration of Restrictive Covenants for the Property and authorize the Chairman and Secretary to execute the Declaration of Restrictive Covenants on the District's behalf.

Presenter: Allison K. Dhand, Staff Attorney



This instrument prepared by  
and after recording return to:

Christopher A. Tumminia, Esq.  
Deputy General Counsel  
Southwest Florida Water Management District  
7601 US Highway 301 North  
Tampa, Florida 33637

## **DECLARATION OF RESTRICTIVE COVENANT**

**THIS DECLARATION OF RESTRICTIVE COVENANT** (hereinafter referred to as the "Declaration") is made by the Southwest Florida Water Management District, having an address of 2379 Broad Street, Brooksville, Florida 34604-6899 (hereinafter referred to as the "GRANTOR"), and the Florida Department of Environmental Protection, having an address of 2900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 (hereinafter referred to as "FDEP").

### **RECITALS**

A. GRANTOR is the fee simple owner of that certain real property situated in the County of Hillsborough, State of Florida, SWF Parcel No. 114 (13-001), SWF Parcel No. 125 (13-001), and SWF Parcel No. 126 (13-001), and more particularly described in Exhibit "A" attached hereto and made a part hereof by reference (hereinafter referred to as the "Property"); and

B. The portion of the Property identified by the FDEP Facility Identification Number COM\_65047 is described in Exhibit "B" attached hereto and depicted in Exhibit "C" attached hereto and made a part hereof by reference (hereinafter referred to as the "Restricted Property"). The facility name at the time of this Declaration is Tampa Bypass Canal Landfill Site. This Declaration addresses the discharge that was reported to the FDEP (then FDER) in 1983; and

C. The presence of buried landfill debris and contaminated leachate on the Restricted Property is documented in the following reports that are incorporated by reference:

1. Contamination Assessment Report dated September 1996, submitted by Geraghty & Miller, Inc.;
2. Contamination Assessment Report Addendum dated June 1997, submitted by Geraghty & Miller, Inc.;
3. Contamination Assessment Report Addendum 2 dated March 1999, submitted by ARCADIS Geraghty & Miller;
4. Remedial Action Plan dated March 2002; submitted by Southwest Florida Water Management District;
5. Remedial Action Report/Certification of Construction Completion dated April 2004, submitted by American Compliance Technologies, Inc.;
6. Groundwater Monitoring Report dated June 2010, submitted by HSA Engineers & Scientists;
7. Groundwater Monitoring Report dated February 2011, submitted by HSA Engineers & Scientists; and
8. Site Rehabilitation Completion Report dated January 18, 2013, submitted by HSA Engineers & Scientists.

D. The reports noted in Recital C set forth the nature and extent of the contamination described in Recital C that is located on the Restricted Property. These reports confirm that contaminated groundwater as defined by Chapter 62-780 Florida Administrative Code ("F.A.C."), along with buried landfill debris, exists on the Restricted Property. These reports also document that the groundwater contamination greater than ¼ acre extends upgradient beyond the Restricted Property boundary to the North, but the groundwater contamination is not migrating beyond an approved Engineering Control, as provided for in Paragraph 2(b)(i) herein; and

E. It is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure of users or occupants of the Restricted Property and the environment to the contaminants and to reduce or eliminate the threat of migration of the contaminants; and

F. The FDEP has agreed to issue a Site Rehabilitation Completion Order with Conditions (hereinafter referred to as the "Order") upon recordation of this Declaration and placement of institutional controls on the remainder of the site. The FDEP can unilaterally revoke the Order if the conditions of this Declaration or of the Order are not met. Additionally, if groundwater concentrations of benzene, chlorobenzene, or polychlorinated biphenyls increase above the levels approved in the Order, or if a

subsequent discharge occurs at the Restricted Property, the FDEP may require site rehabilitation to reduce concentrations of contamination to the levels allowed by the applicable FDEP rules. The Order relating to FDEP Facility No. COM\_65047, can be found by contacting the appropriate FDEP district office or bureau; and

G. GRANTOR deems it desirable and in the best interest of all present and future owners of the Restricted Property that an Order be obtained and that the Restricted Property be held subject to certain restrictions and engineering controls, all of which are more particularly hereinafter set forth.

NOW, THEREFORE, to induce the FDEP to issue the Order and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the undersigned parties, GRANTOR agrees as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.

2. GRANTOR hereby imposes on the Restricted Property the following restrictions:

**GROUNDWATER USE RESTRICTIONS:**

a. There shall be no use of the groundwater under the Restricted Property. There shall be no drilling for water conducted on the Restricted Property, nor shall any wells be installed on the Restricted Property other than monitoring wells pre-approved in writing by FDEP's Division of Waste Management ("DWM"), in addition to any authorizations required by the Division of Water Resource Management and the Southwest Florida Water Management District. Additionally, there shall be no stormwater swales, stormwater detention or retention facilities, or ditches on the Restricted Property. For any dewatering activities, a plan pre-approved by FDEP's DWM must be in place to address and ensure the appropriate handling, treatment, and disposal of any extracted groundwater that may be contaminated.

**SOIL RESTRICTIONS:**

b.i. The area of buried debris located within the Restricted Property and shown on Exhibit "C" attached hereto as the "Approximate Extent of Landfill Materials" shall be permanently covered and maintained with a minimum of two (2) feet of clean and uncontaminated soil that prevents human exposure. The southern side of the Approximate Extent of Landfill Materials shall be completely bounded by an engineered sheet pile retaining wall, whose location is shown on Exhibit "C" attached hereto as "Sheet Pile Retaining Wall." The soil cap and retaining wall described above shall collectively be referred to as the "Engineering Control." An Engineering Control Maintenance Plan ("ECMP") has been approved by FDEP. The ECMP specifies the frequency of inspections and monitoring for the Engineering Control and the criteria for determining when the Engineering Control has failed. The Engineering Control shall be maintained in accordance with the

ECMP as it may be amended upon the prior written consent of FDEP. The ECMP, as amended, relating to FDEP COM\_65047, can be obtained by contacting the appropriate FDEP district office or Tallahassee program office; and

b.ii. Excavation and construction deeper than two feet below land surface is not prohibited on the Restricted Property provided any buried debris and associated contaminated soils that are excavated are removed and properly disposed of pursuant to Chapter 62-780 F.A.C., and any other applicable local, state, and federal requirements. Nothing herein shall limit any other legal requirements regarding construction methods and precautions that must be taken to minimize risk of exposure while conducting work in contaminated areas. For any dewatering activities, a plan pre-approved by FDEP's DWM must be in place to address and ensure the appropriate handling, treatment, and disposal of any extracted groundwater that may be contaminated. Nothing in this Declaration shall prevent, limit or restrict any excavation or construction at or below the surface outside the boundary of the Restricted Property.

3. In the remaining paragraphs, all references to "GRANTOR" and "FDEP" shall also mean and refer to their respective successors and assigns.

4. For the purpose of monitoring the restrictions contained herein, FDEP is hereby granted a right of entry upon and access to the Restricted Property at reasonable times and with reasonable notice to the GRANTOR. Access to the Restricted Property is granted via providing access to the Property located at SWF Parcel No. 114 (13-001), SWF Parcel No. 125 (13-001), and SWF Parcel No. 126 (13-001), as defined in Exhibit "A".

5. It is the intention of GRANTOR that this Declaration shall touch and concern the Restricted Property, run with the land and with the title to the Restricted Property, and shall apply to and be binding upon and inure to the benefit of GRANTOR and FDEP, and to any and all parties hereafter having any right, title or interest in the Restricted Property or any part thereof. The FDEP may enforce the terms and conditions of this Declaration by injunctive relief and other appropriate available legal remedies. Any forbearance on behalf of the FDEP to exercise its right in the event of the failure of the GRANTOR to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of the FDEP's rights hereunder. This Declaration shall continue in perpetuity, unless otherwise modified in writing by GRANTOR and the FDEP as provided in paragraph 7 hereof. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation, or governmental agency that is substantially benefited by these restrictions. If the GRANTOR does not or will not be able to comply with any or all of the provisions of this Declaration, the GRANTOR shall notify FDEP in writing within three (3) calendar days. Additionally, GRANTOR shall notify FDEP thirty (30) days prior to any conveyance or sale, granting or transferring the Restricted Property or portion thereof, to any heirs, successors, assigns or grantees, including, without limitation, the conveyance of any security interest in said Restricted Property.

6. In order to ensure the perpetual nature of this Declaration, GRANTOR shall reference these restrictions in any subsequent lease or deed of conveyance, including the recording book and page of record of this Declaration. Furthermore, prior to the entry into a landlord-tenant relationship with respect to the Restricted Property, the GRANTOR agrees to notify in writing all proposed tenants of the Restricted Property of the existence and contents of this Declaration of Restrictive Covenant.

7. This Declaration is binding until a release of covenant is executed by the FDEP Secretary (or designee) and is recorded in the public records of the county in which the land is located. To receive prior approval from the FDEP to remove any requirement herein, cleanup target levels established pursuant to Florida Statutes and FDEP rules must be achieved. This Declaration may be modified in writing only. Any subsequent amendments must be executed by both GRANTOR and the FDEP and be recorded by GRANTOR as an amendment hereto.

8. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provisions of the Declaration. All such other provisions shall continue unimpaired in full force and effect.

9. GRANTOR covenants and represents that on the date of execution of this Declaration that GRANTOR is seized of the Restricted Property in fee simple and has good right to create, establish, and impose this restrictive covenant on the use of the Property. Grantor also covenants and warrants that the Restricted Property is free and clear of any and all liens, mortgages, or encumbrances that could impair GRANTOR'S rights to impose the restrictive covenant described in this Declaration or a joinder and consent, or subordination of such interests, as applicable, is attached hereto.

IN WITNESS WHEREOF, Southwest Florida Water Management District has executed this instrument, this \_\_\_\_ day of \_\_\_\_\_, 2020.

**GRANTOR**

**SOUTHWEST FLORIDA WATER  
MANAGEMENT DISTRICT**

By: \_\_\_\_\_  
Name: Mark Taylor  
Title: Board Chair  
2379 Broad Street  
Brooksville, FL 34604

Approved as to Legal Form and  
Content

\_\_\_\_\_  
Attorney

Signed, sealed and delivered in the presence of:

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

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

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

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

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization this \_\_\_\_ day of \_\_\_\_\_, 2020, by MARK TAYLOR as representative for the Southwest Florida Water Management District.

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_.

Type of Identification Produced \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Print Name of Notary Public

Commission No. \_\_\_\_\_

Commission Expires: \_\_\_\_\_



Approved as to form by the Florida Department of Environmental Protection, Office of General Counsel \_\_\_\_\_.

IN WITNESS WHEREOF, the Florida Department of Environmental Protection has executed this instrument, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
MARY YEARGAN  
Director of District Management  
Department of Environmental Protection  
Southwest District  
13051 N. Telecom Parkway  
Temple Terrace, Florida 33637-0926

Signed, sealed and delivered in the presence of:

Witness: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by MARY YEARGAN as representative for the Florida Department of Environmental Protection.

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_.  
Type of Identification Produced \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Print Name of Notary Public

Commission No. \_\_\_\_\_

Commission Expires: \_\_\_\_\_

## EXHIBIT A

### SWF. Parcel No. 114 (13-001)

#### DESCRIPTION:

The NE 1/4 of the NE 1/4 of Section 22, Township 29 South, Range 19 East, less rights of way for public road. That part or the above described land lying above the mean high-water line and within 375 feet of the following described center line of the Tampa Bypass Canal:

Begin on the west boundary of said Section 22, 375' from the SW corner of the NW 1/4 thereof, said point being Centerline Station 71+26.72; thence N 89° 53' 31" E, 2069.63 feet to the P.O. of a curve to the left having a radius of 1000.00 feet; thence along the arc of said curve 503.38 feet through a central angle of 28° 50' 30" to the end of said curve; thence N 89° 44' 01" south of the NE corner thereof, said point being Station 277+49.38.

and

That portion of the "NE 1/4 of the NE 1/4 of SECTION 22; TOWNSHIP 29 SOUTH, RANGE 19 EAST, LESS rights-of-way for Public Road", described as follows;

Commencing at the southeast corner of the NE 1/4 of the NE 1/4 of Section 22, Township 29 South, Range 19 East, monumented by a crosscut in the concrete bridge deck;

Thence N 01°11 '29" E, along the east boundary of said Section 22, a distance of 618.58 feet to its intersection with the northerly right-of-way line of the Tampa Bypass Canal;

Thence S 89°52'29" W, along said right-of-way line, a distance of 25.01 feet to the westerly right-of-way line of Maydell Drive, the P.O.B.;

Thence continue S 89°52'29" W, along said canal right- of-way line, a distance of 19.99 feet;

Thence N 12°23'34" E, a distance of 102.89 feet to a point on the westerly right-of-way line of Maydell Drive;

Thence S 01°11'29" W, along said right-of-way line, a distance of 100.47 feet to the northerly right-of-way line of the Tampa Bypass Canal and the P.O. B., all lying and being within the County of Hillsborough, State of Florida.

AND

### SWF. Parcel No. 125 (13-001)

#### DESCRIPTION:

The East 87 ¼ feet of lot 6 of THOMAS J. ROBERTS SIX Mile CREEK SUBDIVISION, according to the plat thereof, recorded in Plat Book 5, Page 49 of the Public Records of Hillsborough County, Florida, LESS the North 335.5 feet of the East 87.25 feet of Lot 6 of Thomas J. Roberts Six Mile Creek Subdivision, as recorded in Plat Book 5, Page 49 of the Public Records of Hillsborough County, Florida. Together with that part of Vacated

58th and Washington Streets abutting thereon as set forth in Deed recorded in Official Records Book 1731, page 319, of the Public records of Hillsborough County, Florida.

AND

**SWF. Parcel No. 126 (13-001)**

**DESCRIPTION:**

The W 50 feet of the E 137.25 feet of lot 6 of the THOMAS J. ROBERTS SIX MILE CREEK SUBDIVISION, according to the Plat thereof, recorded in Plat Book 5, Page 49 of the Public Records of Hillsborough County, Florida, Being a subdivision of the NW ¼ of the NE ¼ of Section 22, Township 29 S, Range 19E,

And

The N 335.5 feet of the E 87.25 feet of lot 6 of THOMAS J. ROBERTS SIX MILE CREEK SUBDIVISION, according to the Plat thereof, recorded in Plat Book 5, Page 49 of the Public Records of Hillsborough County, Florida, Being a subdivision of the NW ¼ of the NE ¼ of Section 22, Township 29 S, Range 19E, Less from Parcels 114 and 125 and 126 the Tampa Bypass Canal, as Constructed

And

Less, from Parcels 114 and 125, the Right of Way acquired for the Selmon Crosstown Expressway

Attachment: Exhibit - June 2020 - TBC\_DRC (5133 : Approval of Declaration of Restrictive Covenant)

## EXHIBIT B

### Restricted Property

#### DESCRIPTION:

A parcel of land lying in the Northeast 1/4 of Section 22; Township 29 South, Range 19 East, Hillsborough County, Florida being more particularly described as follows:

As a point of reference commence at the Northeast corner of said Section 22, and proceed S 01°11 '52" W, along the East boundary of the Northeast 1 /4 of said Section 22, a distance of 778.62 feet to an Easterly projection of the Southerly Limited Access right-of-way line per Tampa-Hillsborough County Expressway Authority Map Contract No. 4.1; thence, along said Southerly Limited Access right-of-way line the following six (6) courses; '(1) S 89°37'00" W, a distance of 135.45 feet; (2) S 87°29'05" W, a distance of 97.24 feet; (3) S 87°09'47" W, a distance of 97.24 feet; (4) S 85°04'26" W, a distance of 97.25 feet; (5) S 82°49'26" W, a distance of 194.48 feet; (6) S 72°19'56" W, a distance of 105.56 feet to the Point of Beginning of the herein described Parcel; thence S 00°00'00" E, a distance of 34.03 feet; thence S 54°16'11" W, a distance of 20.19 feet; thence S 67°17'21" W, a distance of 119.72 feet; thence S 12°37'53" W, a distance of 53.28 feet; thence S 71°48'27" W, a distance of 48.11 feet; thence S 65°59'26" W, a distance of 97.74 feet; thence S 63°09'42" W, a distance of 88.34 feet; thence S 63°37'16" W, a distance of 97.42 feet; thence S 62°15'14" W, a distance of 55.46 feet; thence S 87°16'21" W, a distance of 20.93 feet; thence N 00°00'00" W, 162.08 feet to a point on the aforementioned Southerly Limited Access right-of-way line, said point being on a curve concave Northerly, having a radius of 4733.66 feet and a chord bearing and distance of N 82°26'06" E, a distance of 259.53 feet; thence along the arc of said curve to the left, a distance of 259.56 feet; thence N 80°51 '51" E, along said Southerly Limited Access right-of-way line, a distance of 105.17 feet; thence N 72°19'56" E, along Southerly Limited Access right-of-way line, a distance of 196.94 feet to the Point of Beginning. Said Parcel containing 46,693 square feet or 1.07 acres more or less.

Attachment: Exhibit - June 2020 - TBC\_DRC (5133 : Approval of Declaration of Restrictive Covenant)



**Point Coordinates**

- Approximate Extent of Landfill Materials
- Chain Link Fence
- ▲ Sheet Pile Retaining Wall
- Water Table Monitoring Well

- ⋯ Chain Link Fence
- Sheet Pile Retaining Wall
- Approximate Extent of Landfill Materials

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**TAMPA BYPASS CANAL LANDFILL SITE**

**SOUTHWEST FLORIDA  
WATER MANAGEMENT DISTRICT**



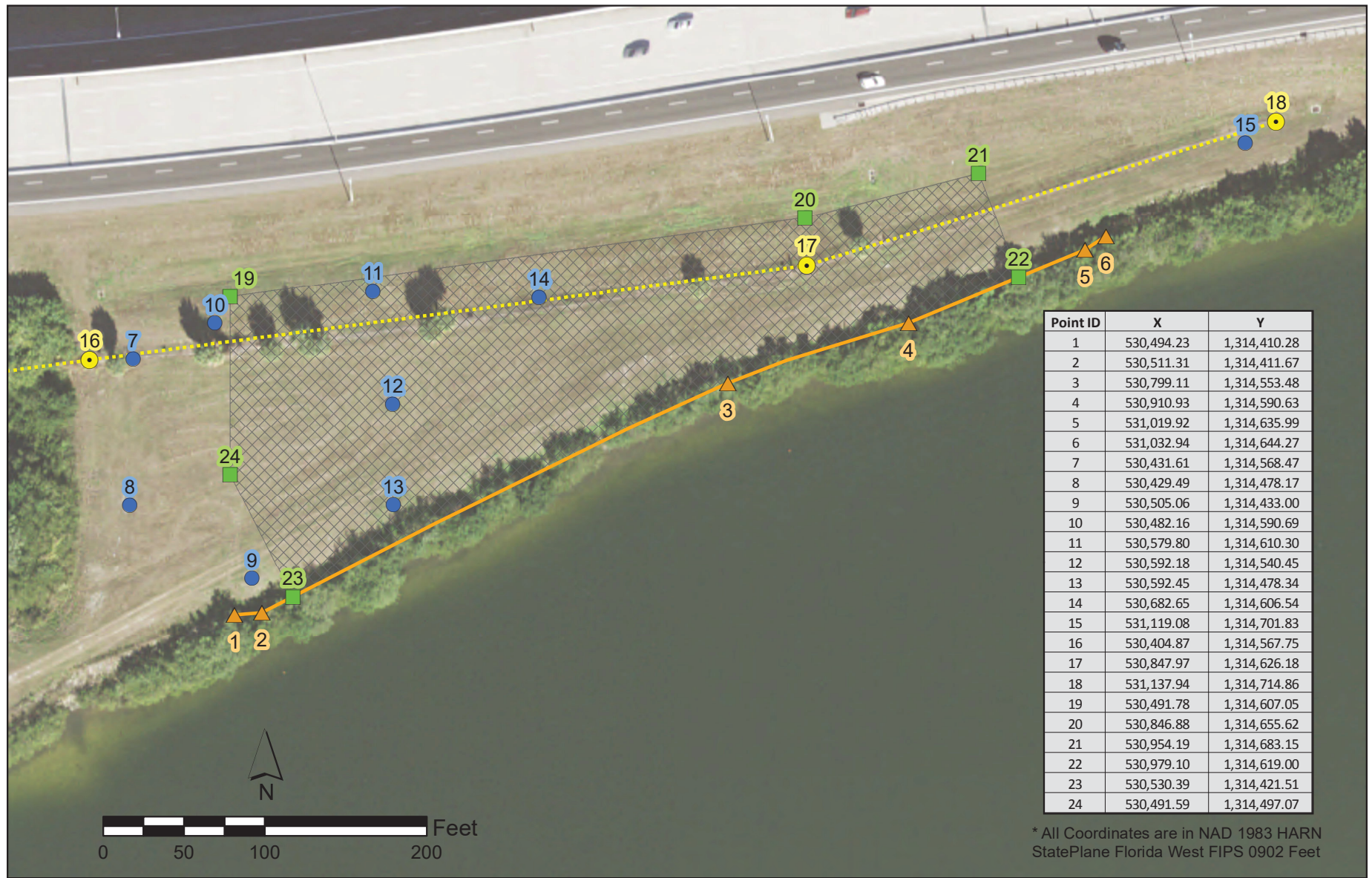


Exhibit D  
Easement Parcel

**Point Coordinates**

- Approximate Extent of Landfill Materials
- Chain Link Fence
- ▲ Sheet Pile Retaining Wall
- Water Table Monitoring Well

- ⋯ Chain Link Fence
- Sheet Pile Retaining Wall
- Approximate Extent of Landfill Materials

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**TAMPA BYPASS CANAL LANDFILL SITE**  
  
**SOUTHWEST FLORIDA  
WATER MANAGEMENT DISTRICT**



## GENERAL COUNSEL'S REPORT

June 23, 2020

### *Consent Agenda*

#### **Governing Board Concurrence – Emergency Order No. SWF 20-023 – Emergency Measures Made Necessary by COVID-19**

On May 8, 2020, the District's Executive Director issued Amended and Restated Emergency Order No. SWF 20-020 (Amended and Restated Emergency Order) in accordance with the Governor's Executive Order Nos. 20-52 and 20-114 declaring a state of emergency throughout Florida due to the Novel Coronavirus Disease 2019 (COVID-19). The District's Amended and Restated Emergency Order extended the duration of Emergency Order No. SWF 20-014 through May 31, 2020, and provided for the following narrowly tailored measures to assist the immediate need for action:

- Extension of permitting deadlines.
- Temporary closure of public buildings and facilities.
- Provision for conducting public meetings exclusively through audio/visual technology.

On May 19, 2020, the District's Governing Board concurred with the Executive Director's findings and approved the Amended and Restated Emergency Order.

The Governor's Executive Orders and Section 373.119, Florida Statutes, authorize local agencies and governments to take actions necessary to meet the emergency. Such actions may include, among others, waiving the procedures and formalities otherwise required to perform public work as necessary to ensure the health, safety, and welfare of the community. The District's Executive Director and staff have found that a limited extension of the District's Amended and Restated Emergency Order is necessary to meet the ongoing public health emergency. As a result, the Executive Director issued Second Amended and Restated Emergency Order No. SWF 20-023 (Emergency Order 20-023) on June 1, 2020 to extend the duration of the Amended and Restated Emergency Order through July 7, 2020. The July 7, 2020 expiration date is consistent with the expiration date of the Governor's Executive Orders and the Department of Environmental Protection's Second Amended and Restated Emergency Order No. 20-0239.

Section 373.119 also requires the District's Governing Board to concur with the findings and conclusions in Emergency Order 20-023. If approved, Emergency Order 20-023 would remain in effect until July 7, 2020, unless terminated or extended by further order.

#### **Staff Recommendation:**

Approve Second Amended and Restated Emergency Order No. SWF 20-023 and concur with the Executive Director's determinations regarding the state of emergency and the actions necessary to meet the emergency.

Presenter: Christopher A. Tumminia, Deputy General Counsel

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

IN RE:

EMERGENCY ORDER DUE TO  
THE EFFECTS OF COVID-19

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**SECOND AMENDED AND RESTATED EMERGENCY ORDER NO. SWF 20-023**

Under the authority of Sections 120.569(2)(n), 252.36, 252.46, and 373.119(2), Florida Statutes (F.S.), and upon consideration of State of Florida Executive Order Nos. 20-52 and 20-114, the Florida Department of Environmental Protection's Amended and Restated Emergency Final Order No. 20-0239, and the following findings of fact, the Southwest Florida Water Management District (District) enters this Amended and Restated Emergency Order (Order), including Findings of Fact and Conclusions of Law, in response to the imminent or immediate danger to the public health, safety, and welfare of the citizens residing within the District caused by the Novel Coronavirus Disease 2019 (COVID-19). This Second Amended and Restated Emergency Order amends and extends the provisions of Emergency Order No. SWF 20-020, entered on May 8, 2020:

**FINDINGS OF FACT**

1. The District is a public corporation charged with the responsibility to conserve, protect, manage, and control the water resources within the 16 counties designated within its geographic boundaries (Emergency Area), and to administer and enforce Chapter 373, F.S. The District issues authorizations for use of sovereign submerged lands pursuant to Chapters 253 and 373, F.S., and permits in accordance with the various procedures and deadlines set forth in Chapters 120, 373, and 403, F.S.,

and rules promulgated thereunder in Chapters 18-20, 18-21, 28, 40D, and 62-330, Florida Administrative Code.

2. COVID-19 is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza.

3. In late 2019, a new and significant outbreak of COVID-19 emerged in China. Since the initial outbreak, COVID-19 has now been detected in more than 100 locations internationally, including the United States. As a result, the World Health Organization has declared COVID-19 a pandemic.

4. Positive cases of COVID-19 have been detected in the state of Florida. On March 1, 2020, pursuant to the Governor's Executive Order No. 20-51, the State of Florida's Surgeon General and State Health Officer declared a Public Health Emergency exists in the State of Florida as a result of COVID-19. The Governor also directed the Director of the Division of Emergency Management to activate the State Emergency Operations Center to Level 1 to provide a coordinated response to the COVID-19 emergency.

5. By State of Florida Executive Order Nos. 20-52 and 20-114 (Executive Orders), the Governor declared that a state of emergency exists throughout the state of Florida. Subsequently, the Florida Department of Environmental Protection issued and extended Emergency Final Order No. 20-0239 providing certain measures to be taken to implement the Governor's Executive Order and meet the exigencies of the public health emergency.

6. The District's Executive Director finds that the effects of COVID-19 create an ongoing state of emergency threatening the public health, safety, welfare, and property throughout the Emergency Area. As a result of the emergency, immediate action is necessary.

7. In accordance with recommendations from the Centers for Disease Control and Prevention (CDC) and other health organizations, many employees of companies and government entities are working remotely to minimize the risk of spreading COVID-19. On March 16, 2020, President Trump and the CDC issued the 15 days to Slow the Spread guidance advising individuals to adopt far reaching social distancing measures such as working from home and avoiding gatherings of more than 10 people.

8. COVID-19 may cause disruption in supply chains and the labor force, thereby impacting the ability of many regulated entities to meet certain regulatory deadlines. Therefore, the District's Executive Director finds that it is appropriate to extend certain regulatory deadlines by 30 days to accommodate disruptions. This Order does not provide relief from any other regulatory requirements, including those of other federal, state, or local agencies. This Order likewise does not provide relief from the District's compliance and enforcement activities. The District will continue to carry out all inspections, testing, data and file reviews, and other compliance verification activities to ensure full compliance with regulatory requirements. In the event of noncompliance with any such requirements, the District will continue to fully execute its compliance and enforcement duties to the extent required by law.

9. The District's Executive Director finds that in-person public meetings and hearings pose a potential risk and should not be held during the term of this Order.

Instead, public meetings and hearings held by electronic means is a safe method to encourage public engagement while protecting public health.

10. Section 373.119(2), F.S., provides that whenever the executive director, with the concurrence and advice of the governing board, finds that an emergency exists requiring immediate action to protect the public health, safety, or welfare of the citizens of the state of Florida, the executive director may, without prior notice, issue an order reciting the existence of such an emergency and require that such action be taken as the executive director deems necessary to meet the emergency.

11. The District's Executive Director finds that immediate, strict compliance with the provisions of the statutes, rules, or orders noted within this Order would prevent, hinder, or delay necessary action in coping with the emergency, and that the actions authorized under this Order are narrowly tailored to address the immediate need for action and are procedurally appropriate under the circumstances.

### **CONCLUSIONS OF LAW**

12. Based on the findings recited above, it is hereby concluded that the emergency caused by COVID-19 poses an immediate danger to the public health, safety, or welfare and requires an immediate order of the District.

13. This Order is issued to carry out the directives in the Executive Orders, which were issued under the authority of article IV, section 1(a) of the Florida Constitution, and in concert with the Florida Department of Environmental Protection Second Amended and Restated Emergency Final Order No. 20-0239. Additionally, under the Executive Orders and Sections 120.569(2)(n), 252.36, 252.46, and 373.119(2), F.S., the District's Executive Director is authorized to issue this Order.

14. Suspension of statutes and rules as noted within this Order is required so as not to prevent, hinder, or delay necessary action in coping with the emergency. However, this Order is limited to the items specified below and does not provide relief from the District's compliance and enforcement activities. The District will continue to carry out all inspections, testing, data and file reviews, and other compliance verification activities to ensure full compliance with regulatory requirements. In the event of noncompliance with any such requirements, the District will continue to fully execute its compliance and enforcement duties.

**THEREFORE, it is hereby ORDERED:**

Within the Emergency Area, the requirements and effects of statutes, rules, agreements, or District orders which conflict with the provisions of this Order are suspended to the extent necessary to implement this Order.

15. **Extension of Time to Comply with Specified Deadlines.** For facilities and activities regulated by the District within the Emergency Area, this Order extends by 30 days the time to comply with the following specified deadlines that occur between the date of issuance of this Order and the expiration of this Order (a.-f. below). However, as specified above, this Order does not provide relief from any other regulatory requirements including those of other federal, state, or local agencies. This Order likewise does not provide relief from the District's compliance and enforcement activities. The District will continue to carry out all inspections, testing, data and file reviews, and other compliance verification activities to ensure full compliance with regulatory requirements. In the event of noncompliance with any such requirements, the District will continue to fully execute its compliance and enforcement duties to the extent required by law.



a. The time deadlines to conduct or report periodic monitoring or any other similar monitoring that is required by a permit, lease, easement, consent of use, letter of consent, consent order, consent agreement, administrative order, or other authorization under Chapters 161, 253, 258, 373, 376, or 403, F.S., and rules adopted thereunder.

b. The time deadlines to file an application for an extension of permit duration or renewal of an existing permit, lease, easement, consent of use, letter of consent, or other authorization under Chapters 161, 253, 258, 373, 376, or 403, F.S., and rules adopted thereunder.

c. The time deadlines to file an application for an operation permit under Chapters 161, 253, 258, 373, 376 or 403, F.S., and rules adopted thereunder.

d. The expiration date for an existing permit, lease, consent of use, or other authorization under Chapters 161, 253, 258, 373, 376 or 403, F.S., and rules adopted thereunder.

e. The time deadlines to obtain a permit for and commence construction of the initial phase of a system for which a conceptual permit was issued pursuant to Part IV of Chapter 373, F.S., and rules adopted thereunder.

16. **Public Meetings and Hearings.** The District shall conduct all public meetings or hearings during the term of this Order only by electronic means, including, but not limited to, the use of webinar or telephone to encourage public engagement while protecting public health. The District shall not hold any in-person public meetings or hearings during the term of this Order. This Order waives the policy and procedural requirements in District Policy 110-5, entitled Conduct of Board Meetings, as necessary. The District will adopt interim

policies to continue to provide remote public access to meetings while continuing to fulfill the duties of the District.

17. **Expiration Date.** This Order shall take effect immediately upon execution by the Executive Director or his designee, and shall expire on July 7, 2020, unless modified or extended by further order.

**DONE AND ORDERED** in Hillsborough County, Florida, on this 1<sup>st</sup> day of June, 2020.

**SOUTHWEST FLORIDA WATER  
MANAGEMENT DISTRICT**

By: [Signature]  
Brian Armstrong, Executive Director

Filed this 1<sup>st</sup> day of June, 2020.

[SEAL]

[Signature]  
Deputy Agency Clerk

**NOTICE OF RIGHTS**

Pursuant to Section 120.569(2)(n), Florida Statutes, any party adversely affected by this Order has the right to seek an injunction of this Order in circuit court or judicial review under Section 120.68, Florida Statutes. Judicial review must be sought by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the District at 7601 U.S. Highway 301 North, Tampa, Florida 33637-6759, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this Order is filed with the Clerk of the District.

**EXECUTIVE DIRECTOR'S REPORT**

**June 23, 2020**

***Consent Agenda***

**Approve Governing Board Minutes – May 19, 2020**

Staff Recommendation:

Staff recommends the Board approve the minutes as presented.

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

## MINUTES OF THE MEETING

### GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

BROOKSVILLE, FLORIDA

MAY 19, 2020

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

The Governing Board of the Southwest Florida Water Management District (District) met for its regular meeting at 9:00 a.m., on May 19, 2020, at its Brooksville Office, 2379 Broad Street, Brooksville, Florida. The following persons were present:

#### Board Members Present

Mark Taylor, Chair  
Michelle Williamson, Vice Chair\*via Phone  
Joel Schleicher, Secretary\*via Phone  
Kelly S. Rice, Treasurer\*via Phone  
Rebecca Smith, Ph.D., Member\*via Phone  
James G. Murphy, Member\*via Phone  
Roger Germann, Member\*via Phone  
Jack Bispham, Member\*via Phone  
Seth Weightman, Member\*via phone

#### Staff Members

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

#### Board Administrative Support

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

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

#### **PUBLIC HEARING (00:00)**

##### **1. Call to Order**

Chair Mark Taylor called the meeting to order and opened the public hearing.

Chair Taylor 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 Taylor 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.

At this time, the meeting was recessed to allow for communication with any members of the public who were providing input via telephone. (Audio - 00:04:21)

Chair Taylor reconvened the meeting at 10:07.

Roll was called and a quorum was confirmed.

## **2. Invocation and Pledge of Allegiance**

Chair Taylor offered the invocation and led the Pledge of Allegiance.

Chair Taylor introduced each member of the Governing Board, who attended remotely and staff at the Dias. 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.

Due to physical constraints, Chair Taylor chaired all committees.

## **3. Additions/Deletions to Agenda**

Mr. Brian Armstrong, Executive director, stated the following item was added to the agenda:

### **Consent Agenda**

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

#### **22a. Governing Board Concurrence – Emergency Order No. 20-020 – Emergency Orders Made Necessary by COVID-19.**

Secretary Schleicher asked that the following item be moved to Discussion:

### **Resource Management Committee**

#### **10. FARMS - William Kip Keene – Trapnell Road Farm (H783), Hillsborough County**

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

No requests were submitted.

Chair Taylor stated there was good cause to amend the agenda as allowed by Section 120.525, Florida Statutes. (Audio – 00:12:11)

### **Consent Agenda**

### **Finance/Outreach & Planning Committee**

#### **5. Resolution No. 20-06, Commending Bryan Beswick for His Service as a Member of the Southwest Florida Water Management District Governing Board**

Staff recommended the Board approve Resolution No. 20-06, Commending Bryan Beswick for His Service as a Member of the Southwest Florida Water Management District Governing Board.

#### **6. Office of Inspector General: Self-Insurance Programs Follow-Up Audit**

Staff recommended the Board approve the Office of Inspector General Self-Insurance Programs Follow-Up Audit.

#### **7. Water Reuse Week**

Staff recommended the Board approve and execute Resolution No. 20-04 declaring May 17-23, 2020 as "Water Reuse Week."

#### **8. Budget Transfer Request for Property and Casualty Premiums and Insurance Broker Services**

Staff recommended the Board approve the budget transfer of \$60,200 from the Zephyr Creek Drainage Improvements: Units 1 and 2 CFI Project (N836) for Property and Casualty Premiums and Insurance Broker Services.

#### **9. Budget Transfer Report**

Staff recommended the Board approve the Budget Transfer Report covering all budget transfers for April 2020.

**10. FARMS – William Kip Keene – Trapnell Road Farm (H783), Hillsborough County**

Staff recommended the Board:

- 1) ~~Approve the William Kip Keene – Trapnell Rd Farms project for a not-to-exceed project reimbursement of \$87,854 with \$87,854 provided by the Governing Board.~~
- 2) ~~Authorize the transfer of \$87,854 from fund 010 H017 Governing Board FARMS Fund to the H783 William Kip Keene – Trapnell Rd Farm project fund.~~
- 3) ~~Authorize Division Director to sign the agreement.~~

**Operations, Lands and Resource Monitoring Committee**

**11. Second Amendment to Agreement for Release of Conservation Easement – Sarasota Interstate Park of Commerce (SIPOC) – Sarasota County SWF Parcel No. 21-118-248**

Staff recommended:

- Approve the Second Amendment to the Agreement for Release of Conservation Easement and authorize the Governing Board Chair and Secretary to execute the document on behalf of the District; and
- Authorize staff to execute any other documents necessary to complete the transaction in accordance with the approved terms.

**12. Donation of Property – Cypress Creek Preserve, SWF Parcel No. 13-500-397**

Staff recommended:

- 1) Amend the District's Florida Forever Work Plan to add the Property proposed for the Donation.
- 2) Approve the Donation Agreement and authorize the Executive Director to sign on behalf of the Governing Board.
- 3) Designate the Property as having been acquired for conservation purposes.
- 4) Authorize staff to execute any other documents necessary to complete the transaction in accordance with the approved terms.

**13. Monitor Well Purchase – South Hillsborough Aquifer Recharge Project - Phase II Sun City Well, Hillsborough County - Regional Observation Monitor-Well (ROMP) TR9-5 [20-065] SWF Parcel No. 11-020-040**

Staff recommended:

- Approve the bill of sale for the well components and authorize the Executive Director to sign on behalf of the Governing Board.
- Accept the amended force main perpetual easement.
- Accept the assignment of the perpetual utility easement for the well location.
- Accept the perpetual easement for the purge water.
- Authorize staff to execute any other documents necessary to complete the transaction in accordance with the approved terms.

**Regulation Committee**

**14. Authorization for Initiation and Approval of Rulemaking to Amend Rule 40D-2.091, F.A.C., to Amend WUP Applicant's Handbook Part B, and to Amend the Public Supply Annual Report Part A**

Staff recommended the Board authorize the initiation of rulemaking and approve the proposed revisions to Rule 40D-2.091(1)(a) F.A.C., Applicant's Handbook Section 2.4.8.4.1.3, and the Public Supply Annual Report Part A, and authorize staff to make any necessary clarifying or technical changes that may result from the rulemaking process.

**15. Individual Water Use Permits Referred to the Governing Board**

**a. WUP No. 20004352.008 - South Central Hillsborough Regional Wellfield / Tampa Bay Water (Hillsborough County)**

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



**b. WUP No. 20020703.001 / Optimum Ranch / Optimum Ranch Florida, LLC (Desoto County)**

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

**c. WUP No. 20020808.000 / City of Cape Coral Supplemental Irrigation Water Supply / City of Cape Coral (Charlotte County)**

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

**General Counsel's Report**

**16. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval**

**a. Consideration of Final Order - Petition for Declaratory Statement - Shannon R. Turbeville - Hernando County**

Staff recommended the Board approve the Final Order denying the Petition for Declaratory Statement filed by Shannon R. Turbeville.

**b. Approval of Consent Order Between SWFWMD and McLeod Family Holdings, LLC and Automotive Fleet Enterprises, Inc. – ERP Violations – CT No. 396747 – Pasco 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.

**c. Approval of Settlement Agreement Between SWFWMD and the Links at River Ridge, LLC - Unauthorized Water Use - CT No. 400298 - Pasco County**

Staff recommended the Board:

- 1) Approve the Settlement Agreement.
- 2) Authorize District staff to pursue additional enforcement measures to obtain compliance with the terms and conditions of the Settlement Agreement, including filing any appropriate actions in circuit court, if necessary.

**17. Rulemaking - None**

**Executive Director's Report**

**18. Approve CFI Northern Region Meeting Minutes – April 1, 2020**

Staff recommended the Board approve minutes as presented.

**19. Approve CFI Southern Region Meeting Minutes – April 2, 2020**

Staff recommended the Board approve minutes as presented.

**20. Approve CFI Tampa Bay Region Meeting Minutes – April 8, 2020**

Staff recommended the Board approve minutes as presented.

**21. Approve CFI Heartland Region Meeting Minutes – April 9, 2020**

Staff recommended the Board approve minutes as presented.

**22. Approve Governing Board Minutes – April 28, 2020**

Staff recommended the Board approve minutes as presented.

**A motion was made and seconded to approve the Consent Agenda. The motion carried unanimously. (Audio – 00:12:57)**

**Chair Taylor called the Finance/Outreach & Planning Committee to order. (Audio – 00:13:50)**

## **Finance/Outreach & Planning Committee**

### **Discussion**

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

**24. Knowledge Management: Comprehensive Fraud Governing Board Policy**

No presentation was provided.

This item was for the Board's information and no action was requested. The Comprehensive Fraud Governing Board Policy will be included as a consent item at the next Governing Board meeting and approval will be requested at that time.

**25. Fiscal Health Update**

Mr. John Campbell, Management Services director, provided a presentation that outlined information as related to the COVID-19 impacts for the current Fiscal Year (FY) 2020 budget to the District and its cooperative partners. Mr. Campbell provided a breakdown of the FY2020 adopted \$203 million budget, which included \$79 million for operating expenses and \$124 million for projects. He outlined the revenue sources, which included Ad Valorem, income from state, federal and local governments, permitting and license fees, interest income, prior year funds, District reserves and other miscellaneous income. Mr. Campbell outlined revenues that will be impacted in FY2021. He stated the current millage rate is 0.2801 (Rolled-back rate), which was a 5.2 percent reduction from FY19. Mr. Campbell stated that roll-back millage rates have been used since FY2011.

Mr. Neil Waud, representing Public Trust Advisors, provided a presentation that outlined an economic update on the global economy.

Secretary Schleicher asked about the impacts to Florida relative to travel and the growth demographics over the last 10 years.

Mr. John Grady, representing Public Trust Advisors, responded that the data regarding this is being collected and will be provided when it becomes available.

Mr. John Emerson, representing the Hernando County Property Appraiser, provided a presentation outlining the impacts property assessment process related to Ad Valorem tax revenue source.

Mr. Campbell presented financial strategies the District has adopted.

This item was presented for information only. No Board action was required.

**Submit & File Reports** – None

### **Routine Reports**

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

**26. Treasurer's Report and Payment Register**

**27. Monthly Financial Statement**

**28. Monthly Cash Balances by Fiscal Year**

**29. Comprehensive Plan Amendment and Related Reviews Report**

Chair Taylor called the Resource Management Committee to order. (Audio – 00:58:45)

## **Resource Management Committee**

### **Discussion**

#### **30. Consent Item(s) Moved for Discussion**

#### **10. FARMS - William Kip Keene – Trapnell Road Farm (H783), Hillsborough County**

Secretary Schleicher asked that a vote be completed on this item.

Staff recommended the Board:

- 1) Approve the William Kip Keene - Trapnell Rd Farms project for a not-to-exceed project reimbursement of \$87,854 with \$87,854 provided by the Governing Board.
- 2) Authorize the transfer of \$87,854 from fund 010 H017 Governing Board FARMS Fund to the H783 William Kip Keene - Trapnell Rd Farm project fund.
- 3) Authorize Division Director to sign the agreement.

**A motion was made and seconded to approve staff's recommendation. The motion carried with eight in favor and one opposed. (Audio – 59:25)**

#### **31. FY2020-21 Cooperative Funding Update**

Mr. Scott Letasi, Project Management Office Chief, provided a presentation. He outlined the timeline, subcommittee structure planning regions, comparison of funding requests for 2017-2021, funding requests by regions, a map outlining the recommended projects, funding breakdown by areas of responsibilities and summaries of regional subcommittees.

Mr. Letasi outlined changes that occurred following the April Board meeting. He stated that project Q164, Crooked Lake/Sunset Trail Stormwater Retrofit, was withdrawn by Polk County.

Mr. Letasi stated the project name was changed for high ranked project Q193, Crystal River Conservation Phase 1, and the evaluation was revised to include updated water savings and cost effectiveness.

Mr. Eric DeHaven, Resource Management Assistant Director, provided a presentation for high ranked project Q184, Polk Regional Water Cooperative Southeast Wellfield Implementation and high ranked project Q216, Polk Regional Water Cooperative Regional Transmission Southeast Phase 1.

Mr. Jay Hoecker, Water Supply Manager, provided a presentation for high ranked project Q145, Longboat Key Club Advanced Irrigation System. He provided an overview of the project, project benefits and project evaluations. Mr. Hoecker provided an overview of District partnerships with private and public entities.

Vice Chair Williamson addressed the cost effectiveness medium ranking for project Q145. She asked what the cost per thousand gallons is for the project. Mr. Hoecker responded \$3.29. The high cost effectiveness metric is \$3 or less per thousand gallons saved. She asked if the cooperator would be willing to cover the 29 cents per 1000 gallons.

Mr. John Riley, Longboat Key Club agronomist, responded in the affirmative.

Ms. Jennette Seachrist, Resource Management Director, stated if the Board approves funding the project at \$3 per thousand gallons, staff will recalculate the District's share and present a revised evaluation for Board approval at the June Board meeting.

A motion was made to fund project Q145 at a cost of \$3.00 per thousand gallons and have staff prepare a revised evaluation for the Board's approval at the June meeting. The motion passed unanimously. (Audio – 01:29:30)

Secretary Schleicher expressed concerns regarding funding new projects and requested that a long-term plan be provided.

Staff recommended the Board:

- 1) Approve budget transfer from H094 Polk Partnership for a total amount of \$11,700,000 to:
  - a. Q184 - Brackish - Polk Regional Water Cooperative Southeast Wellfield Implementation for \$6,750,000, and
  - b. Q216 - Interconnects - Polk Regional Water Cooperative Regional Transmission Southeast Phase 1 for \$4,950,000.
- 2) Approve staff recommendation to include 1A, High and Medium ranked projects in the District's FY2021 RASB in the amount of \$52,640,747.
- 3) Approve staff recommendation to eliminate all Low ranked and Not Recommended projects from further funding consideration.

**A motion was made and seconded to approve staff's recommendation. The motion carried with eight in favor and one opposed. Secretary Schleicher stated his opposition was due to his concerns regarding funding new projects during this time. (Audio – 01: 37:21)**

#### **Submit & File Reports**

#### **32. Lower Hillsborough River Recovery Strategy – Second Five-Year Assessment**

#### **Routine Reports**

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

#### **33. Minimum Flows and Levels and Reservations Status Report**

#### **34. Significant Water Resource and Development Projects**

**Chair Taylor adjourned the Committee and called the Operations, Lands and Resource Monitoring Committee to order. (Audio – 01:41:58)**

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

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

#### **Submit & File Reports**

#### **36. Hydrologic Conditions Report**

#### **Routine Reports**

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

#### **37. Significant Activities**

#### **38. Structure Operations**

#### **39. Surplus Lands**

**Chair Taylor adjourned the Committee and called the Regulation Committee to order. (Audio – 01:42:30)**

#### **Regulation Committee Discussion**

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

#### **41. Consider Water Shortage Order(s) as Necessary**

None were presented

#### **42. Denials Referred to the Governing Board**

None were presented

#### **Submit & File Reports – None**

### **Routine Reports**

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

**43. Overpumpage Report**

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

**Chair Taylor adjourned the Committee.** (Audio – 01:42:57)

### **General Counsel's Report**

#### **Discussion**

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

Ms. Karen West, General Counsel, informed the Board that the District agreed to settle a lawsuit with USSI, a previous janitorial service. The settlement was for the full amount that was requested by the District.

**Submit & File Reports – None**

### **Routine Reports**

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

**46. May 2020 Litigation Report**

**47. May 2020 Rulemaking Update**

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

**48. Executive Director's Report**

Mr. Brian Armstrong, thanked the Board for continuing to fund the Polk Regional Water Cooperative. He stated there is continued cooperation to address the concerns in that region.

### **Chair's Report**

**49. Chair's Report**

**50. Employee Milestones**

The meeting was adjourned at 10:46.

Attest:

Chair

Secretary





**Governing Board Meeting  
June 23, 2020**

<b>FINANCE/OUTREACH &amp; PLANNING COMMITTEE</b>
--------------------------------------------------

***Discussion Items***

20. Consent Item(s) Moved for Discussion .....	146
21. Knowledge Management: Governing Board Committee Responsibilities and 110-1 Policies and Procedures Governing Board Policy .....	147
22. Fiscal Year 2021 Recommended Annual Service Budget .....	165
23. District Boat Replacement .....	167

***Submit and File – None***

***Routine Reports***

24. Treasurer's Report and Payment Register .....	169
25. Monthly Financial Statement.....	170
26. Monthly Cash Balances by Fiscal Year .....	171
27. Comprehensive Plan Amendment and Related Reviews Report .....	172

**FINANCE/OUTREACH & PLANNING COMMITTEE**

**June 23, 2020**

***Discussion Item***

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

Staff Recommendation:

Presenter: Michael Molligan, Division Director, Employee and External Relations

## FINANCE/OUTREACH & PLANNING COMMITTEE

June 23, 2020

### *Discussion Item*

#### **Knowledge Management: Governing Board Committee Responsibilities and 110-1 Policies and Procedures Governing Board Policies**

##### *Purpose*

As part of the District's Knowledge Management initiative, all the District's Governing Board Policies are being reviewed by the respective divisions.

##### *Background/History*

The District's Knowledge Management initiative was launched in FY2016 and is now a Core Business Process in the District's Strategic Plan. Knowledge Management is the practice of systematically and actively collecting, managing, sharing and leveraging the organization's data, information and processes. The focus since FY2018 has been on improving the organization of governing documents to facilitate knowledge sharing, ensure the alignment of division and bureau practices with Governing Board Policies and Executive Director Procedures, and allow for timely retrieval and review of existing governing documents.

##### **Governing Board Committee Responsibilities Governing Board Policy**

The Governing Board Committee Responsibilities Governing Board Policy combines the following five Governing Board policies into one policy:

- 110-3 Governing Board Committee Responsibilities
- 110-3A Governing Board Committee Responsibilities Finance/Outreach & Planning Committee
- 110-3B Governing Board Committee Responsibilities - Regulation Committee
- 110-3C Governing Board Committee Responsibilities - Operations, Lands & Resource Monitoring Committee
- 110-3E Governing Board Committee Responsibilities - Resource Management Committee

Some of the major changes to the new policy include having only one Statement of Policy at the beginning of the document, deleting the unnecessary bulleted lists of District policies over which each Committee has oversight and streamlining the Committees' tasks. The new policy identifies the overall tasks, or topics, over which each Committee has oversight. Policies are assigned to Committees based on which topics the Committees cover.

##### **110-1 Policies and Procedures Governing Board Policy**

The 110-1 Policies and Procedures Governing Board Policy was reviewed by the District's General Counsel and was deemed unnecessary. The policy is therefore recommended for deletion.

##### *Benefits*

Updating existing Governing Board Policies increases efficiencies and ensures organizational alignment.

## Item 21

Staff Recommendation:

This item is presented for the Board's information and no action is requested. The Governing Board Committee Responsibilities and 110-1 Policies and Procedures Governing Board policies will be included as a consent item at the next Governing Board meeting and approval will be requested at that time.

Presenter: Robyn Felix, Communications and Board Services Bureau Chief

# DRAFT

## GOVERNING BOARD POLICY

Southwest Florida Water Management District

**Title: Governing Board Committee Responsibilities**

**Document Owner:** Robyn Felix; CBS Bureau Chief

**Approved By:** Mark Taylor; Chair

**Effective Date:** MM/DD/YYYY

**Supersedes:** 09/30/2014

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### PURPOSE

The purpose of this Policy is to outline the Governing Board's committee approach that is used to conduct much of the District's business.

### SCOPE

This Policy applies to the Governing Board.

### AUTHORITY

Chapter 373, Florida Statutes (F.S.)

### DEFINITIONS

N/A

### POLICY

To effectively review the many issues to be considered by the Governing Board, the Governing Board has approved a committee as the appropriate forum to conduct much of the business of the District. The committees are: Finance/Outreach & Planning Committee; Operations, Lands & Resource Monitoring Committee; Regulation Committee; and the Resource Management Committee.

Each committee is a committee of the whole with all Governing Board members serving as committee members. The Governing Board chair will appoint each committee a chair and vice chair, except that the treasurer shall be the chair of the Finance/Outreach & Planning Committee.

## **GOVERNING BOARD POLICY**

**Title: Governing Board Committee Responsibilities**

**Effective Date: MM/DD/YYYY**

**Page 2 of 4**

Staff shall develop committee agendas with the Governing Board chair approving the final committee agendas. Committee agendas will be designated based on the following guidelines:

- 1) Review of ongoing initiatives in the realm of the Committee's responsibilities.
- 2) Consideration of new projects and programs in the realm of the Committee's responsibilities.

The following section outlines the responsibilities of each committee:

### **Finance/Outreach & Planning Committee**

The Finance/Outreach & Planning Committee will provide leadership for the District's financial, outreach, planning and diversity activities. The Committee will review all financial and administration activities of the District; ensure adequate internal controls exist to safeguard the assets of the District; assist District management in developing strategies to enhance the workforce and vendor diversity of the District; and provide leadership for the District's strategic and long-range planning activities, community and legislative affairs initiatives and communication programs. The Committee also acts as the District's Audit Committee unless the Governing Board Chair appoints an Ad Hoc Audit Committee.

Specific Committee tasks related to Finance include accounting, administration and financial matters of the District; annual budget and millage levy rates; staffing levels; financial plans to address water resource development initiatives; oversight for the District's Office of Inspector General; and any and all other finance and administration related issues that require Committee review.

Specific Committee tasks related to Outreach & Planning include development and updating of the Strategic Plan or other plans; providing guidance and oversight of the District's standing Advisory Committees, the Agricultural and Green Industry, Environmental, Industrial and Public Supply committees; providing guidance for strategic communications and public messaging; and any and all other outreach and planning related issues that require Committee review.

Specific Committee tasks related to Diversity include promoting a diverse workforce and encouraging a diversity of qualified contractors, including woman-owned and minority-owned businesses, to participate in the District's procurement process without discrimination.

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

The Operations, Lands & Resource Monitoring Committee will provide leadership for the District's operations, land resource management and development activities, and monitoring of water resources and conditions, thereby ensuring appropriate resource management.

Specific Committee tasks related to Operations include operation and maintenance of the District's water control structures, including the Structures Capital Improvement Plan. Specific Committee tasks related to Lands include development of the Florida Forever Work Plan; consideration of lands identified for acquisition or surplus ; strategies for land management and



## **GOVERNING BOARD POLICY**

**Title: Governing Board Committee Responsibilities**

**Effective Date: MM/DD/YYYY**

**Page 3 of 4**

public use; contracts, leases, and maintenance agreements relating to land ownership and land use; and land use and management plans.

Specific Committee tasks related to Resource Monitoring include the District's hydrologic and geohydrologic conditions; water quality monitoring; Mapping and Geographic Information System programs; and projects and data collection/analysis efforts to support regulatory and rulemaking activities and water resource projects.

### **Regulation Committee**

The Regulation Committee will provide leadership for the District's regulatory and enforcement programs, thereby ensuring appropriate resource management. The Committee will review the District's permitting rules, procedures and support needs relating to various categories of water use, well construction, environmental resource, and other regulatory programs, permit fees, and areas determined to be of special hydrologic concern.

Specific Committee tasks related to Regulation include monitoring, reviewing and refining permitting procedures and practices as well as enforcement procedures and practices in compliance with Chapters 40D and 62, F.A.C., and Chapter 373, Florida Statutes; reviewing and updating the permit fee structure and penalty matrices and recommending actions pertaining to Water Shortage Orders.

### **Resource Management Committee**

The Resource Management Committee will provide leadership for the District's water resource management and development activities, thereby ensuring appropriate resource management.

Specific Committee tasks related to Resource Management include reviewing District initiatives and programs, including Water Use Caution Areas, the Surface Water Improvement and Management (SWIM) Program, Springs initiatives, Minimum Flows and Levels, the Facilitating Agricultural Resource Management Systems Program, the Watershed Management Program and the Cooperative Funding Initiative; and development of the District's Regional Water Supply Plan and SWIM plans.

### **DISTRIBUTION**

This Policy will be stored in the Governing Board Policy Repository.

### **REFERENCES**

Chapters 40D and 62, Florida Administrative Code (F.A.C.)

Chapter 373, F.S.

### **REVIEW PERIOD**

This policy will be reviewed every three (3) years by the Document Owner or designee and updated for Governing Board approval if needed to implement policy revisions.

## GOVERNING BOARD POLICY

Title: Governing Board Committee Responsibilities

Effective Date: MM/DD/YYYY

Page 4 of 4


### DOCUMENT DETAILS

Document Name	Governing Board Committee Responsibilities
Formerly Known As	Governing Board Committee Responsibilities
Document Type	Policy
Author(s)	Robyn Felix
Reviewing Stakeholder(s)	Division Directors; General Counsel
Document Owner Name	Robyn Felix
Document Owner Title	CBS Bureau Chief
Review Period (in days)	1,095
Span of Control	Governing Board
Supersedes Date	09/30/2014
Effective Date	

### APPROVAL

\_\_\_\_\_  
Insert Governing Board Chair's Name  
Chair

\_\_\_\_\_  
Date

BOARD POLICY			
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT			
<b>TITLE: GOVERNING BOARD COMMITTEE RESPONSIBILITIES FINANCE/OUTREACH &amp; PLANNING COMMITTEE</b>			
SECTION/ BUREAU:	EXECUTIVE	NUMBER:	110-3A
		PAGE:	1 of 5
APPROVED BY:		EFFECTIVE DATE:	9/30/2014
MICHAEL A. BABB, CHAIR		SUPERSEDES:	7/27/2004 & 12/14/2004

## STATEMENT OF POLICY:

In order to effectively review the many issues to be considered by the Governing Board, the Governing Board has approved a committee approach as the appropriate forum to conduct much of the business of the water management district.

The Committee is a committee of the whole with all Governing Board members serving as committee members. The Committee chair shall be the Treasurer and the Governing Board Chair will appoint a vice chair.

Staff shall develop Committee agendas with the Governing Board Chair approving the final Committee agendas. Committee agendas will be designated based on the following guidelines:

Review of ongoing initiatives in the realm of Committee responsibility.

Consideration of new projects and programs in the Committee realm of responsibilities.

## FINANCE/OUTREACH & PLANNING COMMITTEE

The Finance/Outreach & Planning Committee will provide leadership for the District's financial, outreach, planning and diversity activities. The Committee will review all financial and administration activities of the District; ensure adequate internal controls exist to safeguard the assets of the District; assist District management in developing strategies to enhance the workforce and vendor diversity of the District; and provide leadership for the District's strategic and long-range planning activities, community and legislative affairs initiatives and communication programs. The Committee also acts as the District's Audit Committee unless the Governing Board Chair has appointed an Ad Hoc Audit Committee.

Specific Committee tasks related to Finance include:

- Responsible to formulate, amend and recommend to the Governing Board, policies related to the accounting, administration and financial matters of the District.
- Review and recommend the annual budget and millage levy rates.
- Review and recommend personnel guidelines and staffing levels.



BOARD POLICY			
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT			
<b>TITLE: GOVERNING BOARD COMMITTEE RESPONSIBILITIES FINANCE/OUTREACH &amp; PLANNING COMMITTEE</b>			
SECTION/ BUREAU:	EXECUTIVE	NUMBER:	110-3A
		PAGE:	2 of 5
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APPROVED BY:		EFFECTIVE DATE:	9/30/2014
		SUPERSEDES:	12/14/2004
MICHAEL A. BABB, CHAIR			

- Review or develop and recommend financial plans to address the immediate and long-term water resource development initiatives.
- Provide oversight for the District's Office of Inspector General.
- Any and all other finance and administration related issues that require Committee review.

Specific Committee tasks related to Outreach & Planning include:

- Provide input on the development and updating of the Strategic Plan, District Water Management Plan or other plans, including annual progress reports as required by Chapter 62-40, Florida Administrative Code (F.A.C.), the Water Resource Implementation Rule.
- Assist in development of the annual budget through the planning process, including consideration of trends associated with statewide Budget Performance Measures.
- Review and analysis of existing District programs to evaluate both efficiency and effectiveness in the context of goals and objectives established in the Strategic Plan, District Water Management Plan or other plans, concurrent with statewide Water Management Performance Measures.
- Oversight of coordination activities with other state, regional and local units of government to promote consistency between the water resource planning and management activities of the District and the land use planning and management activities of these other organizations.
- Oversight of the District's efforts to solicit input from affected parties and the general public in long-range planning initiatives. This includes providing guidance and oversight of the District's standing advisory committees, including the Agricultural, Environmental, Green industry, Industrial and Public Supply committees.
- Develop recommendations to the Governing Board for coordination efforts with other water management districts, the Department of Environmental Protection, the State land planning agency and other appropriate agencies.
- Provide guidance for strategic communications and public messaging.
- Any and all other outreach and planning related issues that require Committee review.

<b>BOARD POLICY</b>			
<b>SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT</b>			
<b>TITLE: GOVERNING BOARD COMMITTEE RESPONSIBILITIES FINANCE/OUTREACH &amp; PLANNING COMMITTEE</b>			
<b>SECTION/ BUREAU:</b>	<b>EXECUTIVE</b>	<b>NUMBER:</b>	<b>110-3A</b>
		<b>PAGE:</b>	<b>3 of 5</b>
<b>APPROVED BY:</b>		<b>EFFECTIVE DATE:</b>	<b>9/30/2014</b>
	<b>MICHAEL A. BABB, CHAIR</b>	<b>SUPERSEDES:</b>	<b>7/27/2004 &amp; 12/14/2004</b>

Specific Committee tasks related to Diversity include:

- Articulate the importance and benefits of a diverse workforce and vendor base at the District.
- Elevate the importance of diversity awareness through the Governing Board's strategic planning process.
- Promote a diverse workforce at the District.
- Promote use of diverse vendors to provide goods and services to the District.
- Suggest ideas to increase the pool of diverse applicants and vendors.
- Propose ideas and initiatives to improve and enhance the District's efforts to have a diverse workforce, reflective of the labor market.
- Network with academic, business, professional and civic organizations to identify various approaches to workforce and vendor diversity.
- Develop methods to make the community aware of the District's desire and efforts to increase its multicultural composition; for example, through participation in speaking engagements, meetings and cultural events.
- Promote training for management staff to increase the understanding of the value that diversity brings to the District's workforce and the vendor base.
- Continually monitor the multicultural composition of the District's work force.
- Encourage retention and promotion of diverse employees.
- Improve methods of identifying and tracking diverse applicants and vendors.
- Work with District staff by providing guidance for recruiting and retaining diverse staff and outreach to and utilization of diverse vendors.
- Establish networks for recruiting applicants and vendors from organizations known for their contacts with the multicultural community.
- Recommend and encourage programs and establishes networks to recruit student interns from educational institutions connected with the multicultural community.
- Recommend advertising enhancements to disseminate information concerning the District's interests in strengthening its diverse workforce and vendor base and to inform diverse applicants and vendors of opportunities with the District.
- Participate in events and opportunities with other water management districts in marketing the District as an employer of choice for employees with diverse backgrounds.



<b>BOARD POLICY</b>			
<b>SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT</b>			
<b>TITLE: GOVERNING BOARD COMMITTEE RESPONSIBILITIES FINANCE/OUTREACH &amp; PLANNING COMMITTEE</b>			
SECTION/ BUREAU:	EXECUTIVE	NUMBER:	110-3A
		PAGE:	4 of 5
APPROVED BY:		EFFECTIVE DATE:	9/30/2014
		SUPERSEDES:	7/27/2004 & 12/14/2004
MICHAEL A. BABB, CHAIR			

- Any and all other diversity related issues that require Committee review.

The Committee has oversight of the following established District Policies:

- Governing Board Committee Responsibilities (110-3A)
- Risk Management and Safety (120-1)
- Disbursement of Funds (130-1)
- Administrative Fees (130-2)
- Regulatory Fees (130-2A)
- District Investment Policy (130-3)
- Travel (130-5)
- Budget Authority Transfer of Funds (130-8)
- Fund Balance (130-9)
- Inspector General Charter (140-1)
- Comprehensive Fraud (140-2)
- Office of Inspector General Roles and Responsibilities (140-3)
- Procurement (150-1)
- District Fixed Asset Accountability (150-2)
- Records Management (190-1)
- Information Security (190-2)
- Construction Plans and Specifications (401-001)
- Recruitment Selection and Compensation of the Executive Director and Inspector General (710-1)
- Performance Evaluations of the Executive Director, General Counsel and Inspector General (710-2)
- Performance Incentive Program (710-3)
- Policies and Procedures (110-1)
- Legislative Coordination (110-2)
- Governing Board Committee Responsibilities (110-3E3A)
- Plain Language Initiative (110-9)
- Agricultural Advisory Committee (170-1)
- Public Supply Advisory Committee (170-2)
- Industrial Advisory Committee (170-3)
- Green Industry Advisory Committee (170-4)



BOARD POLICY			
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT			
<b>TITLE: GOVERNING BOARD COMMITTEE RESPONSIBILITIES FINANCE/OUTREACH &amp; PLANNING COMMITTEE</b>			
SECTION/ BUREAU:	EXECUTIVE	NUMBER: 110-3A	PAGE: 5 of 5
APPROVED BY:		EFFECTIVE DATE: 9/30/2014	7/27/2004 & SUPERSEDES: 12/14/2004
MICHAEL A. BABB, CHAIR			

- Environmental Advisory Committee (170-5)

**REFERENCE:** Chapter 40D, Florida Administrative Code  
Chapter 62-40, Florida Administrative Code  
Chapter 373, Florida Statutes

**SUPERSEDES:** Board Policy 110-3A, Governing Board Committee Responsibilities  
- Finance and Administration (eff. 7/27/2004)  
Board Policy 110-3D, Governing Board Committee Responsibilities  
- Diversity (eff. 6/28/2005)  
Board Policy 110-3E, Governing Board Committee Responsibilities  
- Outreach and Planning Committee (eff. 12/14/2004)

<b>BOARD POLICY</b> <b>SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT</b>			
<b>Governing Board Committee Responsibilities –</b> <b>TITLE: Operations, Lands &amp; Resource Monitoring Committee</b>			
<b>SECTION/DEPT.: Executive</b>	<b>NUMBER: 110-3C</b>	<b>PAGE: 1 OF 2</b>	
<b>APPROVED BY:</b>  <b>MICHAEL A. BABB, CHAIR</b> <b>EFFECTIVE DATE: 9/30/2014</b> <b>SUPERSEDES: 7/26/2005</b>			

## STATEMENT OF POLICY:

In order to effectively review the many issues to be considered by the Governing Board, the Governing Board has approved a committee approach as the appropriate forum to conduct much of the business of the water management district.

The Committee is a committee of the whole with all Governing Board members serving as committee members. The Governing Board Chair will appoint the Committee a chair and vice chair.

Staff shall develop Committee agendas with the Governing Board Chair approving the final Committee agendas. Committee agendas will be designated based on the following guidelines:

Review of ongoing initiatives in the realm of Committee responsibility.

Consideration of new projects and programs in the Committee realm of responsibilities.

## OPERATIONS, LANDS & RESOURCE MONITORING COMMITTEE

The Operations, Lands & Resource Monitoring is to provide leadership for the District's operations, land resource management and development activities, and monitoring of water resources and conditions, thereby ensuring appropriate resource management. Specific Committee tasks include:

- Lead in the development of the Florida Forever Work Plan.
- Make recommendations to the Governing Board concerning resource evaluations of lands identified for acquisition.
- Make recommendations to the Governing Board concerning land acquisition activities.
- Identify joint cooperative funding opportunities for land management and acquisition through public/private agreements, as well as through local and state programs.
- Develop strategies for long-term land management and public use.
- Make recommendations to the Governing Board concerning contracts, leases, licenses, and maintenance agreements relating to land ownership and land use.
- Make recommendations to the Governing Board concerning land use and management plans.
- Develop initiatives for inclusion in the Strategic Plan.
- Monitor the District's hydrologic and geohydrologic conditions.
- Facilitate projects and data collection/analysis efforts to support regulatory and rulemaking activities and water resource projects.
- Responsible to formulate, amend and recommend to the Governing Board policies relative to the Committee.
- Review, develop and provide direction on the operation of District water control structures.
- Any and all other resource management and development related issues that require Committee review.

<b>BOARD POLICY</b> <b>SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT</b>			
<b>Governing Board Committee Responsibilities –</b> <b>TITLE: Operations, Lands &amp; Resource Monitoring Committee</b>			
SECTION/DEPT.: <b>Executive</b>	NUMBER: <b>110-3C</b>	PAGE: <b>2 OF 2</b>	
APPROVED BY:	MICHAEL A. BABB, CHAIR	EFFECTIVE DATE: <b>9/30/2014</b>	SUPERSEDES: <b>7/26/2005</b>


The Committee has oversight of the following established District Policies:

- Governing Board Committee Responsibilities (110-3C)
- Land Acquisition (610-1)
- Land Use and Management (610-3)
- Sale, Exchange or Conveyance of Interests in Land By The District (610-4)
- Guidelines for Funding and Construction of Water Control Structures (610-6)
- Local Government Partnership Funding for District Lands (610-011)

**REFERENCE:** Chapter 40D, Florida Administrative Code  
Chapter 62-40, Florida Administrative Code  
Chapter 373, Florida Statutes

**SUPERSEDES:** Board Policy 110-3C, Governing Board Committee Responsibilities – Resource Management and Development Committee (eff. 7/26/2005)



<b>BOARD POLICY</b>		
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT		
<b>TITLE: GOVERNING BOARD COMMITTEE RESPONSIBILITIES – REGULATION COMMITTEE</b>		
SECTION/DEPT.: EXECUTIVE	NUMBER: 110-3B	PAGE: 1 of 2
APPROVED BY:  MICHAEL A. BABB, CHAIR	EFFECTIVE DATE: 9/30/2014	SUPERSEDES: 7/27/2004

#### STATEMENT OF POLICY:

In order to effectively review the many issues to be considered by the Governing Board, the Governing Board has approved a committee approach as the appropriate forum to conduct much of the business of the water management district.

The Committee is a committee of the whole with all Governing Board members serving as committee members. The Governing Board Chair will appoint the Committee a chair and vice chair.

Staff shall develop Committee agendas with the Governing Board Chair approving the final Committee agendas. Committee agendas will be designated based on the following guidelines:

Review of ongoing initiatives in the realm of Committee responsibility.

Consideration of new projects and programs in the Committee realm of responsibilities.

#### REGULATION COMMITTEE

The Regulation Committee will provide leadership for the District's regulatory and enforcement programs, thereby ensuring appropriate resource management. The Committee will review the District's permitting rules, procedures and support needs relating to various categories of water use, well construction, environmental resource, and other regulatory programs, permit fees, and areas determined to be of special hydrologic concern. Specific Committee tasks include:

- Monitor, review and refine permitting procedures and practices in compliance with Chapters 40D and 62, F.A.C., and Chapter 373, Florida Statutes.
- Monitor, review and refine the enforcement procedures and practices including the delivery methods employed to accomplish the requirement of Chapters 40D and 62, F.A.C.
- Monitor the resource for promotion of long-term sustainability, protection from harm, establish procedures and responses that prevent undue hardship, and ensure equitable distribution of available water resources to accomplish the requirements of Chapters 40D, F.A.C.
- Review and recommend actions to improve existing, as well as new, regulatory programs.
- Develop an overall understanding of the laws, rules and implementation process, which apply to the District's regulatory program.
- Review other agencies' regulatory practices and any proposed delegating of permitting responsibilities to the District to assess its impact on the District.
- Identify areas for review and possible action. This can include new programs assigned by the Legislature or delegated by the Department of Environmental Protection; or deficiencies in existing programs.
- Develop specific actions to implement improvements.
- Develop initiatives for inclusion in the Strategic Plan.



<b>BOARD POLICY</b>			
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT			
<b>TITLE: GOVERNING BOARD COMMITTEE RESPONSIBILITIES – REGULATION COMMITTEE</b>			
SECTION/DEPT.: EXECUTIVE	NUMBER: 110-3B	PAGE: 2 of 2	
APPROVED BY: MICHAEL A. BABB, CHAIR	EFFECTIVE DATE: 9/30/2014	SUPERSEDES: 7/27/2004	

- Identify improvements in efficiencies and consistency within the regulatory program.
- Review and update permit fee structure.
- Recommend actions pertaining to Water Shortage Orders.
- Review and update of penalty matrices.
- Any and all other regulation related issues that require Committee review.

The Committee has oversight of the following established District Policies:

- Governing Board Committee Responsibilities (110-3B)
- Regulatory Fees (130-2A)
- Well Drilling Advisory Committee (225-017)

**AUTHORITY:** Chapter 40D, Florida Administrative Code  
Chapter 62-40, Florida Administrative Code  
Chapter 373, Florida Statutes

**SUPERSEDES:** Board Policy 110-3B, Governing Board Committee Responsibilities  
Regulation Committee Finance and Administration (eff. 7/27/2004)



<b>BOARD POLICY</b> <b>SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT</b>			
<b>Governing Board Committee Responsibilities –</b> <b>TITLE: Resource Management Committee</b>			
<b>SECTION/DEPT.:</b> Executive	<b>NUMBER:</b> 110-3E	<b>PAGE:</b> 1 OF 2	
<b>APPROVED BY:</b>  <b>MICHAEL A. BABB</b> <b>EFFECTIVE DATE:</b> 9/30/2014 <b>SUPERSEDES:</b> 7/26/2005			

### STATEMENT OF POLICY:

In order to effectively review the many issues to be considered by the Governing Board, the Governing Board has approved a committee approach as the appropriate forum to conduct much of the business of the water management district.

The Committee is a committee of the whole with all Governing Board members serving as committee members. The Governing Board Chair will appoint the Committee a chair and vice chair.

Staff shall develop Committee agendas with the Governing Board Chair approving the final Committee agendas. Committee agendas will be designated based on the following guidelines:

Review of ongoing initiatives in the realm of Committee responsibility.

Consideration of new projects and programs in the Committee realm of responsibilities.

### RESOURCE MANAGEMENT COMMITTEE

The Resource Management Committee is to provide leadership for the District's water resource management and development activities, thereby ensuring appropriate resource management. Specific Committee tasks include:

- Review resource management issues associated with Water Supply, Flood Protection, Water Quality, and Natural Systems.
- Review District initiatives and programs including Water Use Caution Areas, Surface Water Improvement and Management (SWIM) Program, Springs Initiatives, minimum flows and levels (MFLs), Facilitating Agricultural Resource Management Systems (FARMS), watershed management program.
- Review resource management projects to ensure efficiency, effectiveness and conformity to objectives identified by the District Strategic Plan, Regional Water Supply Plan, and Water Management Plan.
- Develop initiatives for inclusion in the Strategic Plan.
- Identify and evaluate potential alternatives to existing programs affecting resource management issues.
- Responsible to formulate, amend and recommend to the Governing Board policies relative to the Committee.

The Committee has oversight of the following established District Policies:

- Cooperative Funding Initiative (130-4)
- Governing Board Committee Responsibilities (110-3E)



BOARD POLICY			
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT			
Governing Board Committee Responsibilities –			
TITLE: Resource Management Committee			
SECTION/DEPT.:	Executive	NUMBER:	110-3E
		PAGE:	2 OF 2
APPROVED BY:	MICHAEL A. BABB	EFFECTIVE DATE:	9/30/2014
		SUPERSEDES:	7/26/2005

**REFERENCE:** Chapter 40D, Florida Administrative Code  
Chapter 62-40, Florida Administrative Code  
Chapter 373, Florida Statutes

**SUPERSEDES:** Board Policy 110-3E, Governing Board Committee Responsibilities  
– Outreach and Planning Committee (eff. 7/26/2005)

Obsolete

BOARD POLICY			
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT			
TITLE: Policies and Procedures			
SECTION/DEPT: Executive	NUMBER: 110-1	PAGE: 1 OF 1	
APPROVED BY: <i>Thomas G. Dabney</i>	THOMAS G DABNEY, CHAIR	EFFECTIVE DATE: 06/24/03	SUPERSEDES: 09/01/92

It is the intent of the Governing Board to adopt policies addressing significant operational matters and management issues of the District in order to provide overall guidance to accomplish the District and Basin functions. The Chairman may assign Board policies to appropriate Board committees for review and updating.

As a companion to Board Policies, the Executive Director will develop specific procedures to implement Board policies. Procedures will be reviewed and updated in conjunction with the review and updating of Board policies.

These documents will state simply and concisely the policies and procedures of the District. All policies and procedures will be published in a consistent format, as approved by the Executive Director. A central repository will be maintained for all Policies and Procedures. A copy of all adopted Board policies will be provided to each newly appointed Governing and Basin Board member as part of their orientation.

The Executive Director, unless prohibited by Board Policy, may delegate his authority to other staff members in implementing policies and procedures.

**FINANCE/OUTREACH & PLANNING COMMITTEE****June 23, 2020*****Discussion Item*****Fiscal Year 2021 Recommended Annual Service Budget*****Purpose***

Submit fiscal year (FY) 2021 Recommended Annual Service Budget (recommended budget) for consideration by the Governing Board as required by statute; and authorize staff to prepare the *Standard Format Tentative Budget Submission* based on the recommended budget, adjusted for any modifications made by the Governing Board on June 23, changes in estimated ad valorem revenue based on the July 1 certifications of taxable value and any additional funding provided by the state.

***Background***

Pursuant to Section 373.536(2), Florida Statutes (F.S.), the District shall, on or before July 15 of each year, submit for consideration by the Governing Board a tentative budget for the District covering its proposed operations and funding requirements for the ensuing fiscal year. On June 23, staff will present the recommended budget to the Governing Board.

Pursuant to Section 373.536(5)(d), F.S., by August 1 of each year, the District shall submit for review a tentative budget and a description of any significant changes from the preliminary budget submitted to the Florida Legislature to the Executive Office of the Governor (EOG), President of the Senate, Speaker of the House of Representatives, chairs of all legislative committees and subcommittees having substantive or fiscal jurisdiction over water management districts, Secretary of the Department of Environmental Protection, and the governing body of each county in which the District has jurisdiction or derives any funds for the operations of the District. This tentative budget is known as the *Standard Format Tentative Budget Submission*.

***Discussion***

Staff will provide an overview of the FY2021 recommended budget including a review of proposed expenditures and revenues. Expenditures will be reviewed by fund, category, program, and area of responsibility. The recommended budget provided to each Governing Board member as an exhibit to the overview includes charts, variance analysis, and detailed descriptions of each project.

At the July 28 Governing Board meeting, staff will present the 16-county property appraisers' certifications of taxable value and the proposed FY2021 millage rate in compliance with s. 373.503(4) and s. 200.065, F.S. The Governing Board will be requested to adopt the proposed FY2021 millage rate to ensure certification to the county property appraisers by August 4. The proposed millage rate is the rate that will be used for Truth in Millage (TRIM) Notices of Proposed Property Taxes. In addition, the Governing Board will be requested to authorize staff to submit the District's *Standard Format Tentative Budget Submission* for FY2021 to the EOG, Florida Legislature, and other parties, as required by statute, to be received by August 1, 2020.

The District's FY2021 final millage rate and budget will be adopted in September following two public budget hearings. The first hearing is scheduled for September 8, 2020 at 5:01 p.m. at the Tampa Office. Written disapproval of any portion of the Tentative Budget Submission must be received from the EOG or the Legislative Budget Commission at least five business days prior to the final budget hearing. The second and final hearing is scheduled for September 22, 2020 at 5:01 p.m. also at the Tampa Office.

Exhibit of the recommended budget will be provided separately.

Staff Recommendation:

Authorize staff to prepare the *Standard Format Tentative Budget Submission* for FY2021 based on the recommended budget as presented, adjusted for any modifications made by the Governing Board on June 23, changes in estimated ad valorem revenue based on the July 1 certifications of taxable value and any additional funding provided by the state.

Presenters: John J. Campbell, Division Director, Management Services,  
Michelle Hopkins, Division Director, Regulation,  
Michael Molligan, Division Director, Employee and External Relations,  
Jennette Seachrist, Division Director, Resource Management, and  
Brian Starford, Division Director, Operations, Lands and Resource Monitoring

**FINANCE/OUTREACH & PLANNING COMMITTEE****June 23, 2020*****Discussion Item*****District Boat Replacement*****Purpose***

Request Governing Board approval to utilize budgeted funds from the Capital Field Equipment Fund (CFEF) to replace boats 3101 and 3316 with one 24-foot aluminum landing craft boat.

***Background/History***

Multiple sections within the District utilize watercraft to perform various work-related tasks on the water such as maintenance of structures and canals, deployment of buoys and boat barriers, placement of lake gauges, and maintenance and placement of data monitoring equipment. The available District-owned watercrafts to perform this work are aging and do not meet the needs required to efficiently perform the work.

A Fiesta 18-foot Pontoon Boat purchased in 2004 (unit 3101) is used to perform maintenance tasks, however the pontoon boat was designed and manufactured for use as a pleasure boat. The deck capacity is unknown and has been repaired with plywood multiple times. A hand-crank lifting device for the replacement of lake gauges was installed. The high deck height of the pontoon boat makes it difficult to access items at or below the water level such as buoys and boat barriers for our water control structures, sunken boats, and various other items including trees, rocks, and other debris that frequently obstructs flow within District canals and water control structures. Due to the limitations of the lifting device, staff are unable to remove large and/or heavy objects or are having to manually remove them from the waterways. The limitation of the lifting device and use of manpower is inefficient and could pose a risk to the public if flow-obstructing debris cannot be removed.

District staff also use a 16-foot Carolina Skiff purchased in 2008 (unit 3316), however, this vessel's design offers limited use and cannot be used for the high-level maintenance needed. Therefore, it is only used to perform general travel on the waterways and, as such, is underutilized.

There is a continued need for a boat capable of handling the work-related tasks. The current pontoon boat is being used for purposes beyond its design and the skiff is underutilized. Frequent repairs are also needed due to the age and design limitations. The purchase of one aluminum landing craft boat designed for the purpose and capabilities to provide for safe and efficient accomplishment of these work-related tasks will allow for the disposition of the two older boats (units 3101 and 3316).

***Benefits/Costs***

The aluminum landing craft boat is engineered to conduct work-related tasks and includes the following features:

- Aluminum hull (0.25 inch or greater)
- Side-mounted crane hull capable of supporting an electric/hydraulic 2,500 lb. crane (smallest available folding crane)

## Item 23

- Front drop-down platform capable of supporting staff and providing easier access to the waterway
- Safety features for conducting work-related tasks (railings, a lower deck height, harness tie-offs); and
- Meets all United States Coast Guard requirements for the District's use.

This boat expands the work capabilities, improves efficiency, and reduces safety risks associated with conducting tasks such as installing, removing and realigning buoys and boat barriers and the associated cement barrier anchors (ranging in weight between 150 and 500 pounds); and removing abandoned boats, trees and other debris. Additionally, this boat will improve the safety associated with water control structure maintenance activities, maintenance and inspection diving, and lake gauge maintenance.

The purchase of this boat will also decrease maintenance and the associated downtime needed for repairs. Boat 3101 is 16 years old and has reached the end of its useful life. It was purchased for \$13,865 and has a life-to-date maintenance cost of \$14,501. The current condition is poor and frequent repairs have contributed to delays on projects. Boat 3316 is 12 years old and was purchased for \$11,803. It has a life-to-date maintenance cost of \$5,401. Downtime due to repairs can cause extended delays in meeting project deadlines, increase safety risks to the public, and equipment failures if maintenance is not performed timely.

To qualify as a CFEF expenditure, the field equipment must meet the following criteria:

- Rolling stock (excluding vehicles less than 1.5 ton),
- Total estimated cost equal to or greater than \$1,000 including delivery, and
- Anticipated useful life of at least five years.

Although the landing craft boat qualifies as a CFEF expenditure, it was not included in the FY2020 Annual Service Budget as a planned expenditure during the fiscal year. Unplanned expenditures from the CFEF are subject to adhering to the *Budget Authority Transfer of Funds* Governing Board Policy.

The current CFEF for Fiscal Year 2020 has an allocation for a 17-foot boat with an expected cost of \$25,600. Savings have been realized in year-to-date purchases and two items were eliminated from purchase due to utilization reviews, yielding a year-to-date savings of \$88,107. The budget for the 17-foot boat and the savings mentioned, as well as the balance of the fund, allow funding for the purchase of the requested boat through the Fiscal Year 2020 CFEF.

### Staff Recommendation:

- Approve the purchase of a 24-foot landing craft boat for \$149,597 utilizing the CFEF.
- Approve the surplus disposition of existing boats 3101 and 3316.

Presenters: Michelle Maxey, P.E., General Services Bureau Chief,  
Jerry Mallams, P.G., Operations and Land Management Bureau Chief, and  
Sandie Will, P.G., Data Collection Bureau Chief



**FINANCE/OUTREACH & PLANNING COMMITTEE**

**June 23, 2020**

***Routine Report***

**Treasurer's Report and Payment Register**

***Purpose***

Presentation of the Treasurer's Report and Payment Register.

***Background***

In accordance with Board Policy, *District Investment Policy*, a monthly report on investments shall be provided to the Governing Board. The Treasurer's Report as of May 31, 2020, reflects total cash and investments.

In accordance with Board Policy, *Disbursement of Funds*, all general checks written during a period shall be reported to the Governing Board at its next regular meeting. The Payment Register listing disbursements since last month's report is available upon request. The Payment Register includes checks and electronic fund transfers (EFTs).

Exhibit will be provided under separate cover.

**Staff Recommendation:**

These items are presented for the Committee's information, and no action is required.

**Presenter:** Melisa J. Lowe, Bureau Chief, Finance

**FINANCE/OUTREACH & PLANNING COMMITTEE**

**June 23, 2020**

***Routine Report***

**Monthly Financial Statement**

*Purpose*

Presentation of the May 31, 2020, monthly financial statement.

*Background*

In accordance with Sections 373.536(4)(e) and 215.985(11), Florida Statutes, relating to state financial information with certain financial transparency requirements, the District is submitting a "Statement of Sources and Uses of Funds for the Eighth Month Ended May 31, 2020."

Exhibit will be provided under separate cover.

Staff Recommendation:

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

Presenter: Melisa J. Lowe, Bureau Chief, Finance

**FINANCE/OUTREACH & PLANNING COMMITTEE**

**June 23, 2020**

***Routine Report***

**Monthly Cash Balances by Fiscal Year**

***Purpose***

To provide a schedule of monthly cash balances by fiscal year, updated to reflect the cash balance as of May 31, 2020.

***Background***

This routine report has been developed to allow the Governing Board to easily monitor the District's cash balances at each month-end and in comparison with monthly cash balances for the last five fiscal years. This trend information will become more important as the District's budget declines and reserves are utilized for projects.

Exhibit will be provided under separate cover.

**Staff Recommendation:**

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

**Presenter:** Melisa J. Lowe, Bureau Chief, Finance

## FINANCE/OUTREACH & PLANNING COMMITTEE

June 23, 2020

### *Routine Report*

#### **Comprehensive Plan Amendment and Related Reviews Report**

##### *Purpose*

This report is provided for the Committee's information and shows District activity in the review of Local Government Comprehensive Plans and Amendments. Staff updates the report monthly.

##### *Background/History*

The water management districts provide technical and policy information on water resources and water resource management to local governments as they prepare amendments to their local government comprehensive plans. This information encompasses various areas of water resource management, including water supply, flood protection and water quality, and is intended to support sound land use decisions. Statutory directives for this assistance include Section 373.711, Florida Statutes (F.S.), Technical Assistance to Local Governments, and Section 163.3184, F.S., Process for Adoption of Comprehensive Plan or Plan Amendments. Under Section 163, F.S., substantially revised in 2011, if important state resources and facilities are to be adversely impacted, the water management districts and other state reviewing agencies must state with specificity how the plan amendment will adversely impact the resource or facility and must include measures that the local government may take to eliminate, reduce, or mitigate the impacts. Any plan amendment comments provided by a water management district and/or other state agencies that are not resolved may be challenged by the Department of Economic Opportunity (DEO).

##### *Benefits/Costs*

The benefits of the District's local government technical assistance program are to ensure local government elected officials have sound water resource technical and policy information as they amend their local government comprehensive plans. This helps to ensure local plans are compatible with the District's plans, programs and statutory direction. Costs for this program primarily include staff time and are budgeted in Fund 10 (Governing Board).

##### **Staff Recommendation:**

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

**Presenter:** Cara Martin, Government and Community Affairs Office Chief

## Local Government Comprehensive Plan Amendment and Related Reviews Report

As of June 04, 2020

Project	Amendment Type	Assigned	Completed	Description	10YWSFW
Auburndale 20-1ACSC	Regular	5/22/2020		Map amendment.	<input type="checkbox"/>
Bartow 20-1	ESR	5/21/2020		Map amendment.	<input type="checkbox"/>
Bowling Green 20-1	ESR	3/20/2020	4/20/2020	No substantive comments.	<input type="checkbox"/>
Charlotte 20-1	ESR	4/16/2020	5/11/2020	No substantive comments.	<input type="checkbox"/>
Clearwater 20-1	ESR	5/12/2020		Map amendment.	<input type="checkbox"/>
Davenport 20-2	ESR	3/20/2020	4/20/2020	Comments addressed conservation, reuse, existing wells and encouraged scheduling an ERP preapplication meeting.	<input type="checkbox"/>
Davenport 20-3	ESR	4/20/2020	5/18/2020	Comments addressed statutory requirements for water supply planning, conservation, reuse, existing WUP/well and encouraged scheduling an ERP preapplication meeting.	<input type="checkbox"/>
Eagle Lake 20-1	ESR	3/17/2020	3/24/2020	No substantive comments.	<input type="checkbox"/>
Highlands 20-1	ESR	3/9/2020	3/17/2020	Comments addressed requirements for regional water supply planning, reuse, conservation, existing wells and encouraged early coordination with ERP staff.	<input type="checkbox"/>
Lake Wales 20-1	ESR	3/9/2020	3/16/2020	No substantive comments.	<input type="checkbox"/>
New Port Richey 20-1	ESR	3/23/2020	4/22/2020	Comments addressed water supply availability coordination with TBW.	<input type="checkbox"/>
Pasco 20-8	ESR	5/21/2020		Text amendments.	<input type="checkbox"/>
Polk 20-2	ESR	5/22/2020	6/4/2020	Comments addressed statutory requirements for potable water supply planning, conservation, reuse, floodplains, wetlands and encouraged scheduling an ERP preapplication meeting.	<input type="checkbox"/>
Polk 20-3	ESR	5/22/2020		Map amendment.	<input type="checkbox"/>
Punta Gorda 20-1	ESR	3/20/2020	3/27/2020	No substantive comments.	<input type="checkbox"/>
Sumter 20-1	ESR	3/5/2020	4/3/2020	Comment addressed regional water supply planning.	<input type="checkbox"/>
Temple Terrace 20-1	ESR	4/8/2020	5/5/2020	No substantive comments.	<input type="checkbox"/>
Venice 20-1	ESR	3/20/2020	3/27/2020	No substantive comments.	<input type="checkbox"/>

Abbreviations:

ACSC            Area of Critical State Concern  
ESR             Expedited State Review





**Governing Board Meeting  
June 23, 2020**

<b>RESOURCE MANAGEMENT COMMITTEE</b>
--------------------------------------

***Discussion Items***

28. Consent Item(s) Moved for Discussion .....	174
29. Draft Charlotte Harbor Surface Water Improvement and Management (SWIM) Plan (W501) .....	175

***Submit & File Reports – None***

***Routine Reports***

30. Minimum Flows and Levels and Reservations Status Report .....	177
31. Significant Water Resource and Development Projects .....	180

**RESOURCE MANAGEMENT COMMITTEE**

**June 23, 2020**

***Discussion Item***

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

Staff Recommendation:

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

**RESOURCE MANAGEMENT COMMITTEE****June 23, 2020*****Discussion Item*****Draft Charlotte Harbor Surface Water Improvement and Management (SWIM) Plan (W501)*****Purpose***

The purpose of this item is to request approval to submit the draft Charlotte Harbor SWIM Plan, dated May 2020, to the agencies and stakeholders in accordance with Section 373.453, Florida Statutes (F.S.).

***Background/History***

In 1987, the Florida Legislature established the Surface Water Improvement and Management (SWIM) Act in response to the increasing occurrence of surface waterbodies that were either determined to be degraded or were trending towards degradation. The Act requires the five water management districts to maintain and update a priority list of water bodies of regional or statewide significance within their boundaries and develop plans and programs for the improvement of those water bodies.

Charlotte Harbor was added to the District SWIM Priority Waterbody List during the first update in 1988. In 1993, in accordance with Section 373.453, Florida Statutes (F.S.), the Governing Board adopted the first Charlotte Harbor SWIM Plan. The original plan outlined issues and management actions associated with the three focus areas of water quality, hydrology, and natural systems. In 2000, the District completed the first update of the Charlotte Harbor SWIM Plan and expanded the Charlotte Harbor SWIM plan boundary to include Lemon Bay, and Dona and Roberts Bay matching the geographic boundary of the Coastal and Heartland National Estuary Partnership (CHNEP), formerly the Charlotte Harbor National Estuary Program. The most recent update to the CHNEP Comprehensive Conservation and Management Plan (CCMP) was released in 2019. This Charlotte Harbor SWIM Plan revision is complementary to the CHNEP CCMP as the two share a consistent focus on management actions, priorities, initiatives and quantifiable objectives in line with the District's areas of responsibility.

The SWIM Plan update was presented to the CHNEP Technical Advisory Committee (TAC), the District's Environmental Advisory Committee (EAC) as well as presented to the public through a workshop format and website. Members of the CHNEP TAC include representatives from the Florida Department of Environmental Protection (FDEP), Florida Department of Agriculture and Consumer Services (FDACS), Florida Fish and Wildlife Conservation Commission (FFWCC), regional planning councils and local governments within the Charlotte Harbor watershed. CHNEP TAC meetings, the District's EAC meetings and the public workshop are publicly noticed meetings and conform to applicable federal, state, and local sunshine/public access requirements. The CHNEP TAC, EAC, public workshop, and today's Governing Board meeting satisfy the public input requirements of 373.453 (3).

Pursuant to Section 373.453(3) District staff are requesting the Governing Board authorize submittal of the draft Charlotte Harbor SWIM Plan to the FDEP, FFWCC, FDACS and appropriate local governments for their review and comment within 45 days. At the end of the review period, District staff will consider the comments and incorporate them as appropriate. A

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final Charlotte Harbor SWIM Plan will be provided at a subsequent Governing Board meeting for final approval.

The draft Charlotte Harbor SWIM Plan is provided to the Governing Board members under separate cover.

Staff Recommendation:

Authorize staff to submit the draft Charlotte Harbor SWIM Plan to the agencies and appropriate local governments in accordance with Section 373.453, F.S.

Presenter: Lizanne Garcia, Lead Project Manager, SWIM Program

**RESOURCE MANAGEMENT COMMITTEE****June 23, 2020*****Routine Report*****Minimum Flows and Levels and Reservations Status Report**

Section 373.042 of the Florida Statutes requires the state water management districts or Department of Environmental Protection (DEP) to establish minimum flows and minimum water levels (MFLs) for aquifers, surface watercourses and other surface water bodies. MFLs are the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area and are used in District permitting programs and for water-supply planning.

Section 373.223(4) of the Florida Statutes provide a legal basis for establishing reservations by the water management districts or the DEP. A reservation sets aside a defined quantity of water from consumptive use, i.e., from being included in a permitted withdrawal. Reservations are used for the protection of fish and wildlife or the public health and safety, and like MFLs, are used for permitting and planning activities.

Summary information concerning the status of five major tasks for water bodies scheduled for MFLs or reservation adoption by December 2020, based on the 2019 Priority List and Schedule that was approved by the Governing Board and DEP is summarized below. Data collection and analyses for priority water bodies scheduled for MFLs adoption in 2021 through 2029 is also ongoing but is not summarized in this status report.

***MFLs and Reservation Development Tasks***

- Draft MFLs and reservation reports are completed for stakeholder review, and in some cases are subjected to independent scientific peer review.
- Independent, scientific peer review is voluntarily initiated and completed for draft reports addressing river, spring and aquifer MFLs and reservations. Draft reports for lake and wetland MFLs are not typically subjected to voluntary peer review. The methods used to establish lake and wetland MFLs were, however, peer reviewed prior to those methods being adopted in rule. Voluntary peer review for individual lakes and wetlands may be conducted based on requests from affected stakeholders or by District decision.
- Public workshops are completed to provide opportunities for stakeholders to learn about and provide input on proposed MFLs and reservations.
- Final MFLs and reservation reports that incorporate peer review findings and stakeholder input are prepared for Governing Board approval.
- Rulemaking for proposed MFLs, any necessary MFLs prevention or recovery strategies, and reservations is approved by the Governing Board, initiated through legal noticing of rule development and proposed rules, and completed with adoption and incorporation of effective MFLs, necessary recovery strategies and reservations into District rules.

***Status for Water Bodies Scheduled for MFLs or Reservation Establishment by December 2020 (Recent Status Changes Highlighted)***

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Water Body	Draft MFLs/ Reservation Report	Independent, Scientific Peer Review	Public Workshop	Final MFLs/ Reservation Report	Rulemaking
Calm Lake <sup>a</sup>	Completed	Completed <sup>b</sup>	Completed	Approved	Completed
Charles, Lake <sup>a</sup>	Completed	Completed <sup>b</sup>	Completed	Approved	Completed
Church Lake <sup>a</sup>	Completed	Completed <sup>b</sup>	Completed	Approved	Completed
Echo Lake <sup>a</sup>	Completed	Completed <sup>b</sup>	Completed	Approved	Completed
Linda, Lake <sup>a</sup>	Completed	Completed <sup>b</sup>	Completed		
Sapphire, Lake <sup>a</sup>	Completed	Completed <sup>b</sup>	Completed	Approved	Completed
41 Northern Tampa Bay Wetlands <sup>c</sup>	Completed	Completed <sup>b</sup>	Completed <sup>d</sup>	Approved <sup>d</sup>	Completed <sup>d</sup>
Chassahowitzka River <sup>a</sup>	Completed	Completed	Completed	Approved	Completed
Chassahowitzka Spring Group <sup>a</sup>	Completed	Completed	Completed	Approved	Completed
Blind Spring <sup>a</sup>	Completed	Completed	Completed	Approved	Completed
Homosassa River <sup>a</sup>	Completed	Completed	Completed	Approved	Completed
Homosassa Spring Group <sup>a</sup>	Completed	Completed	Completed	Approved	Completed
Rainbow River <sup>a</sup>	Completed	Completed	Completed	Approved	Completed
Rainbow Spring Group <sup>a</sup>	Completed	Completed	Completed	Approved	Completed
Marion, Lake <sup>e</sup>	Completed	Completed <sup>b</sup>	Not Needed <sup>f</sup>	Approved	Initiated
Hancock, Lake <sup>g</sup>	Completed	Completed	Completed	Approved	Completed
Cypress, Lake <sup>h</sup>					
Garden, Lake <sup>h</sup>					
Halfmoon Lake <sup>h</sup>					
Jackson, Lake <sup>h</sup>					
Strawberry (North Crystal) Lake <sup>h</sup>					
Peace River (lower segment) <sup>h</sup>	Completed	Initiated			
Shell Creek (lower Segment) <sup>h</sup>	Completed	Initiated			



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<sup>a</sup> Scheduled for completion in 2019.

<sup>b</sup> Peer review completed for lake and wetland MFLs methods.

<sup>c</sup> 20 wetlands scheduled for completion in 2019 and 21 scheduled for completion in 2020.

<sup>d</sup> Public workshop, final MFLs report and rulemaking completed for 40 of 41 wetlands scheduled for completion in 2019 and 2020 and 2 additional wetlands not included on the priority list; removal of 1 of the scheduled wetlands is being proposed to the Governing Board in June.

<sup>e</sup> Reevaluation of MFLs adopted for Lake Marion completed outside of the MFL Priority List and Schedule due to the lake's location in a springshed and near a District boundary

<sup>f</sup> The small number of owners of property adjacent to Lake Marion precluded the need for a public workshop. However, an informational letter was sent to lakefront property owners and an offer was made to meet with all stakeholders with questions or concerns associated with the MFLs.

<sup>g</sup> Reservation scheduled for completion in 2020.

<sup>h</sup> Scheduled for completion in 2020.

### Staff Recommendation:

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

Presenter: Doug Leeper, MFLs Program Lead, Environmental Flows and Assessments Section

**RESOURCE MANAGEMENT COMMITTEE****June 23, 2020*****Routine Report*****Significant Water Resource and Development Projects**

This report provides information on significant Resource Management projects and programs in which the Governing Board is participating in funding. The report provides a brief description and status of significant activities associated with the project that have recently occurred or are about to happen.

**SWUCA Recovery Project at Flatford Swamp and Hydrologic Restoration**

The project investigates the feasibility of using excess water from Flatford Swamp recharged into the Upper Floridan Aquifer that would reduce the rate of saltwater intrusion inland and help restore hydroperiods. A water budget model comparing existing and historic conditions within Flatford Swamp was developed to determine the amount of excess water that could be captured for a beneficial use. Several preliminary scenarios for removal of excess water from the swamp have been evaluated such as a feasibility study to determine Mosaic's potential uses for excess water from Flatford Swamp. The Feasibility Study with Mosaic was finalized in March 2013 but determined unfeasible. Staff researched an injection option at Flatford for the excess water to recharge the aquifer and discussed the need for more information on the Avon Park formation at the swamp. A pre-application meeting with Florida Department of Environmental Protection (FDEP) was held on February 25, 2016. Draft Class V, Group 2 Injection Well permit application was issued by FDEP approximately a year later. The feasibility study memorandum is complete. Staff has presented to the Agricultural\Green Industry, Environmental, Well Drillers and Public Supply Advisory Committees. Also, staff had outreach presentations to the Manatee Chamber Environmental Committee, Myakka River Coordinating Council, and the Florida Groundwater Association Board. Governing Board approved at their April meeting to proceed with the test well project. The successful consultant from the Request for Proposal for the test well project was the Jones Edmunds & Associates (JEA) team. The successful bidder for the drilling RFB was Rowe Drilling. Both the consultant and driller agreements were executed, and kick-off meetings were held on February 22, 2018. Rowe Drilling requested and was approved to drill on a 24-hour, five days a week schedule to bring the drilling back on schedule. Rowe had to drill deeper than originally estimated to fully characterized the Upper Floridan Aquifer. The permit submittal for final recharge well casing depths has been approved by FDEP based on information from the completed Phase 1 tasks. The recharge well and monitor wells are complete. Rowe has demobilized from the site. The drilling is complete. The project received its FDEP Environmental Resource Permit and US Army Corps of Engineers (USACE) Nationwide permit for the diversion infrastructure. The Project Team continues to develop the recharge testing project plan. Staff is developing a "simple" pilot study to determine quantities of sodium bisulfite (an oxygen scavenger to reduce formation of arsenic in the aquifer) for the testing portion. Request for Bid (RFB) for the diversion infrastructure was advertised on January 3, 2020. The mandatory pre-bid meeting and site visit took place on January 15, 2020. Bids were due to District Procurement on February 4, 2020. TLC Diversified, Inc., was awarded the construction contract and staff are currently working with procurement to develop an agreement for the construction of the diversion infrastructure. Staff set transects in nearby Flatford Swamp wetlands to meet USACE permit conditions for diversion infrastructure construction. ***New Activities Since Last Meeting:*** Notice to Proceed sent to TLC Diversified for construction of diversion infrastructure on May 6, 2020. Site visit for baseline wetland monitoring occurred May 27, 2020. Pilot test of oxygen scavenger in recharge water postponed until August 2020 to ensure materials are available. ***Project Manager: Lisann Morris***

## **Lower Hillsborough River MFLs Recovery Strategy - Implementation**

At its August 2007 meeting, the Governing Board established minimum flows and approved a recovery strategy for the lower Hillsborough River (LHR). The recovery strategy was adopted as required by statute, because flows in the LHR were below the established minimum flows. The recovery strategy includes a number of projects to divert water from various sources to help meet the minimum flows. Projects planned or completed under the recovery strategy, funded through a Joint Funding Agreement with the City of Tampa (COT), include diversions of water from Sulphur Springs, Blue Sink, the Tampa Bypass Canal (TBC), and Morris Bridge Sink. All projects are constructed and are operating except for the Morris Bridge Sink project. In October 2017, the District completed design for the Morris Bridge Pumping facility, but construction has not begun pending the outcome of analysis the COT is performing associated with the Tampa Augmentation Project (TAP). In addition, the COT, with District co-funding, has completed the LHR Dam Control Gate Facilities (N492) project which constructed a new sluice gate in the dam to allow the city to pass the full quantity of water needed to meet minimum flows. In December 2017, the COT began operation of the temporary pump stations at the District's S-161 site and at the Hillsborough River Dam site. The COT has received Water Use Permit (WUP) No. 20020802 from the District for the operation of these pump stations. In summary, all activities and projects proposed in the adopted recovery strategy are either underway, completed, or have been determined to not be viable. Important components of the recovery strategy are currently in operation, including the use of Sulphur Springs, Blue Sink, LHR Dam Control Gate Facilities, and the TBC as recovery flow sources, and data results from recent years suggest that the desired goal of creating low salinity habitat below the dam can be sustained through minimum flows implementation. The annual LHR recovery strategy update was provided to the Governing Board in August 2019. Agreement executed with Jones Edmunds and Associates to complete the permit required environmental monitoring for Morris Bridge Sink. Agreement has been executed to conduct the biological sampling needed for the third five-year assessment.

***New Activities Since Last Meeting:*** The second five-year assessment was submitted to the Governing Board at the May 2020 meeting. Consultant has completed the first biological sampling on the river for the third five-year assessment. The water use permit required annual report for Morris Bridge Sink was submitted to FDEP. *Project Manager: Danielle Rogers*

## **Pasco County - Restoration - Central Pasco Recharge Wetlands Facility Optimization Project**

Pasco County, in partnership with the Southwest Florida Water Management District (District), has constructed a system of groundwater recharge wetlands on the 4G Ranch in central Pasco County to receive reclaimed water for groundwater recharge. The facility consists of 175 acres of constructed wetlands divided into fifteen (15) cells planted with native wetland vegetation. Each cell is operated independently through a valve manifold that includes flow control valves and flow meters and operated based on water elevation setpoints. These water level setpoints should change monthly based on recommendations defined in the Operation and Maintenance Manual to achieve a wetland hydroperiod that mimics natural Florida wetlands, with high levels in the summer wet season and lower levels in the winter dry season.

The Central Pasco Recharge Wetlands Facility Optimization project is a follow-up three-year project (N943) that began in 2018. The goal of the project is to compile and review available applicable operational data to evaluate impacts to the local groundwater system, optimize system performance, and estimate future operational trends. The total cost of this project is \$280,000, split equally between the County and the District. As part of this project, an operational groundwater model of the site will be developed using the information from the consultant combined with the data that County staff is currently collecting. This operational

groundwater model will be used to estimate potential future system infiltration rates, impacts and benefits to the Upper Floridan aquifer, and future operational conditions. Consultant scientists will perform biannual vegetation surveys of the 15 cells constructed on the 4G Ranch to assess the performance of the wetlands against the setpoints. The surveys will be completed through photo-interpretation of low-altitude, high resolution photography obtained by the County to determine wetland vegetation cover of each cell. A technical memorandum that includes the results of both the hydrogeologic review and the vegetation hydroperiod review will be provided. This technical memorandum will include recommendations for changes to the monthly water elevation setpoints that will both maximize groundwater recharge while maintaining healthy wetland vegetative communities. The County is funding the third and final year of the project at 100 percent. There have been some problems with the well monitoring equipment, which are to be resolved by the County. The County provided a plan to resolve the problems with the well monitoring equipment. Otherwise, the optimization effort (N943) is on schedule and moving forward in its third year. The District has received the first status report for the plan to correct the well monitoring issues, and that effort appears to be progressing in a reasonable manner. The District provided comments to the County on the second annual report for the project. ***New Activities Since Last Meeting:*** A meeting was held to discuss the report and comments, as well as the ongoing operation of the facility. The County promised to address all of the District's questions in the final version of the second annual report. The District received a project status report on May 12, 2020. *Project Manager: Mike Hancock*

### **South Hillsborough County Aquifer Recharge Program (SHARP)**

This is a direct aquifer recharge pilot project to evaluate directly recharging the non-potable zone of the UFA with up to 2 mgd of highly treated reclaimed water at the Hillsborough County's Big Bend facility near Apollo Beach in southern Hillsborough County (County). The goal of the project is to improve water levels within the Most Impacted Area of the Southern Water Use Caution Area and possibly slow the rate of inland movement of saltwater intrusion in the area. The pilot testing program includes permitting, installing a recharge well and associated monitor wells, assessing aquifer characteristics, performing recharge testing, evaluating water level improvements, migration of the recharge water and metals mobilization, and conducting public outreach. The County's consultant submitted the well construction permit application for authorization to install the test recharge well and monitoring wells on December 20, 2011. Design and preparation of bid documents were completed in early July 2012; a request for bids was released the week of July 16, 2012, with responses received in August 2012. Construction contract with the contractor (A.C. Schultes of Florida, Inc.) was approved by the County on April 3, 2013. The recharge well was completed in December 2013 with an open-hole diameter of 14.75 inches, 780 feet of casing, and a total depth of 1,100 feet. The County received a letter from FDEP on July 13, 2015 authorizing recharge operations to begin. ***New Activities Since Last Meeting:*** Recharge testing and monitoring continued during the months of March, April and May at an average recharge rate of 2.4 mgd. March injection volume was 75 million gallons. Injection volume for April or May was not available at the time this update was prepared. Total recharge volume through March is approximately 3,683 million gallons since the beginning of the project. The County submitted the Underground Injection Control operation permit application to the FDEP in October and FDEP is still evaluating it. *Project Manager: Don Ellison*

### **City of Tampa, Tampa Augmentation Project (TAP)**

This project is a study that will explore the cost and feasibility of two options to beneficially use reclaimed water from the Howard F. Curren Advanced Wastewater Treatment Plant (HFCAWTP). The first alternative concept involves transmitting reclaimed water to the Lower Hillsborough Wilderness Preserve Area and delivering water through created wetlands and/or rapid infiltration basins (RIBs) to the Tampa Bypass Canal. This alternative was found infeasible and the project focus went to the second alternative. The second alternative concept evaluates a recharge/recovery system to store and recover reclaimed water (and possibly stormwater) in

the aquifer for delivery to the Hillsborough River Reservoir and possibly in the future directly to the David L Tippen Water Treatment Plant. The City has developed their stakeholder outreach plan, completed their route and regulatory/institutional analysis memorandums. The City is currently testing the recharge/recovery concept at an existing aquifer storage and recovery site. A No Cost Time Extension amendment is being routed to allow for finalization of the more complex memoranda covering modeling and water quality treatment. A draft Florida Department of Environmental Protection Underground Injection Well permit application was prepared. Additional feasibility tasks have been identified as a result of this first phase and the City has submitted a revised Cooperative Funding Application to request funding for Fiscal Year 2019. No Cost Time Extension was executed extending the contract completion date to the end of August 2018. The City withdrew their underground injection control permit for the entire TAP project and will continue discussions with FDEP on permitting aspects of the overall project. In the interim, the City plans to move forward and develop a permit application for the Rome Avenue site for testing with potable water. The City decided to fund 30 percent design activities for some of the TAP infrastructure. The Phase I Feasibility Study is complete and closed. Phase 2 Feasibility Study kick-off meeting was held on January 30, 2019. The Memorandum of Understanding with Tampa Bay Water was tabled until June 2020 when the Phase 2 TAP Feasibility Study is anticipated to have additional answers. Meanwhile, the City initiated recovery at the TAP-1 well collecting water quality samples. The City is working through the Rome Avenue Underground Injection Control permit with Florida Department of Environmental Protection that will use potable water in the test. A kick-off meeting was held on the Rome Avenue test well site on July 17, 2019. Testing will be done with potable water with data inputting into the SEAWAT model to predict disposition of the reclaimed water injection. The contract period is extended from August 3, 2020 to April 30, 2021. Draft for the Revised Pipeline Route Analysis and TAP-1 operations report summarizing the water quality data collected for the 2018/2019 Woodland Terrace recharge and recovery cycles has been received. This report includes geochemical modeling which considers the mobilization of iron and arsenic. The information developed in this report will be added to the operations data from the Rome Avenue ASR system and the groundwater modeling of recharge/recovery with reclaimed water to estimate the operational requirements of a future TAP Indirect Potable Reuse system. **New Activities Since Last Meeting:** Tap-1 collection system groundwater quality final report has been completed. Technical memorandum of updated TAP pipeline route final report has been completed. Permit has been granted for Phase 2 TAP pipeline construction. *Project Manager: Mohamed Hersi*

### **Water Incentives Supporting Efficiency (WISE) Program**

This is a cost-share program that supports and promotes water conservation with non-agricultural water users. It will provide a streamlined project implementation/application process and reach cooperators that might not otherwise implement smaller conservation projects. The program was presented to the Governing Board on November 13, 2018 and officially launched December 1, 2018. The \$50,000 that was budgeted for FY2019 has been committed to a total of six conservation projects. Total estimated water savings for all the FY2019 projects was approximately 10,400 gpd. Funds are still available for FY2020, and outreach is ongoing. Six additional projects have been approved for funding with FY2020 funds. Meetings and calls with potential applicants are ongoing. **New Activities Since Last Meeting:** A weather-based irrigation control system at a condo association in Sarasota was approved for funding. Remaining FY2020 funds total \$36,423. *Project Manager: Josh Madden*

### **Polk County Regional Water Cooperative Southeast Wellfield Project**

Polk County lies within the Southern Water Use Caution Area (SWUCA) and the Central Florida Water Initiative (CFWI) where traditional water sources are nearing their sustainable limits and alternative water sources need to be developed to meet the projected demands. As a result, Polk County and the municipalities within Polk County, with the District's encouragement, have

## Item 31

created a regional water supply entity, the Polk Regional Water Cooperative (PRWC), to develop future alternative water supplies (AWS). The Southeast Wellfield project is one of four PRWC projects that are utilizing funds from District Resolution 15-07 for the feasibility and design of new AWS sources. The project consists of the development of a wellfield to supply brackish groundwater from the Lower Floridan aquifer (LFA), a reverse osmosis water treatment facility with capacity expandable to 30 mgd, and a regional transmission system to serve multiple municipalities in Polk County. The current CFI Agreement with the Polk Regional Water Cooperative (PRWC) includes the following tasks: an LFA test well study including exploratory drilling and groundwater modeling for anticipated aquifer yield and water quality, the conceptual designs of the water treatment facility and regional transmission system, a District-led third-party review of the test well study and conceptual designs, pilot water treatment testing, preliminary (30 percent) designs of the treatment facility and regional transmission system, a second District-led third-party review of the preliminary designs, and a preliminary water rate analysis for PRWC member customers. The preliminary designs and water rate analysis will assist the District and PRWC in determining member participation in the final design and construction, as well as developing funding plans and timelines for implementation. The CFI Agreement was executed in April 2017 with a total cost of \$11,800,000. The District's 50 percent share was provided by a transfer from funds reserved by Governing Board Resolution 15-07. In April 2019, the Governing Board approved reducing the project cost to \$11,117,916 to utilize savings from the testing program to transfer fund to the PRWC Peace River/Land Use Transition study. The exploratory drilling was conducted on a county-owned land parcel approximately 10 miles east of Lake Wales and was substantially completed in April 2019. The parcel is proposed as the future site for the water treatment facility. The water treatment facility and wellfield conceptual design was developed with a 7.5 mgd production capacity in its initial phase and six incremental expansions up to a total of 30 mgd, based on projected customer needs and practical components for the facility. The regional transmission conceptual design evaluated multiple routes to ten customer service areas by cost and nine other criteria. The report drafts from the testing program and the conceptual designs of the water treatment facility and regional transmission system were received in July 2019. The District's third-party review of the groundwater testing and conceptual designs was presented to the Governing Board at the September 2019 meeting, and the continuance with the preliminary design phase was approved. The PRWC continues to work on the preliminary design of the wellfield, brackish water treatment facility, and the regional transmission system. In December 2019, the DEP executed a \$1,424,000 State Grant for the project that will reduce District and PRWC shares equally. The CFI Agreement was amended in April 2020 to add terms and conditions of the State Grant. ***New Activities Since Last Meeting:*** The PRWC continues preliminary design work on the facility and regional transmission system. Electrical and instrumentation design elements were presented to the technical advisory committee in May. *Project Manager: John Ferguson*

### Staff Recommendation:

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

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





**Governing Board Meeting  
June 23, 2020**

<b>OPERATIONS, LANDS &amp; RESOURCE MONITORING COMMITTEE</b>
--------------------------------------------------------------

***Discussion Items***

32. Consent Item(s) Moved for Discussion .....	185
33. 2020 Hurricane Preparedness .....	186
34. Hydrologic Conditions Report.....	187

***Submit & File Reports – None***

***Routine Reports***

35. Significant Activities .....	194
36. Structure Operations.....	197
37. Surplus Lands Update .....	200

**OPERATIONS, LANDS AND RESOURCE MONITORING COMMITTEE**

**June 23, 2020**

***Discussion Item***

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

Staff Recommendation:

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

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

**June 23, 2020**

***Discussion Item***

**2020 Hurricane Preparedness**

***Purpose***

Provide an overview of the District's emergency preparedness for the 2020 hurricane season. Discussion will include actions to prepare District infrastructure and staff for the upcoming hurricane season and detail the District's responsibilities as a member of the State's Emergency Response Team (SERT).

***Background/History***

Water Management Districts are members of the SERT and serve as support agencies to the Department of Transportation and the Department of Environmental Protection during statewide emergency activations. Statewide communication and coordination is achieved through the State Emergency Operations Center. The District is a party to the Statewide Mutual Aid Agreement and the Florida Water Management Districts Mutual Aid Agreement for Catastrophic Emergency Response/Recovery. These agreements provide reciprocal emergency aid and assistance during an emergency.

The District has an updated (2018) Comprehensive Emergency Management Plan (CEMP), in line with Florida Statute, Chapter 252, Emergency Management. The CEMP outlines a comprehensive and effective program to ensure an effective response to a full range of potential emergencies, including major weather-based events such as hurricanes. In the event of a hurricane, or any other emergency that could potentially impact the District's 16-county area, the District's Emergency Operations Center is prepared for activation to monitor and respond.

**Staff Recommendation:**

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

**Presenter:** Kawika Bailey, Senior Land Management Specialist/Emergency Coordinating Officer

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

**June 23, 2020**

***Discussion Item***

**Hydrologic Conditions Report**

See attached report.

**Staff Recommendation:**

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

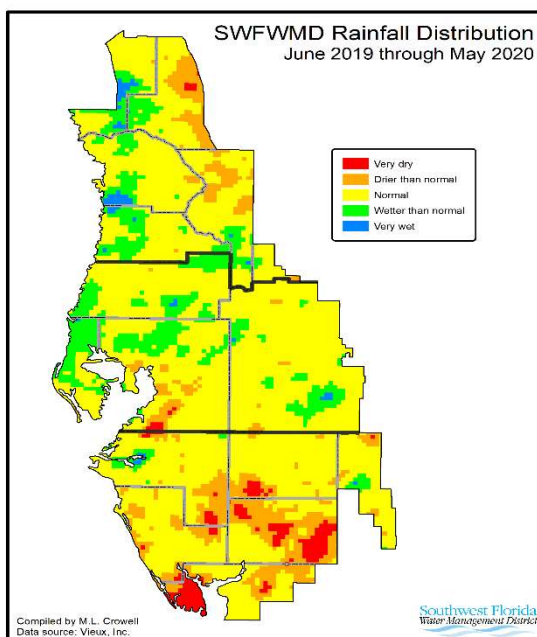
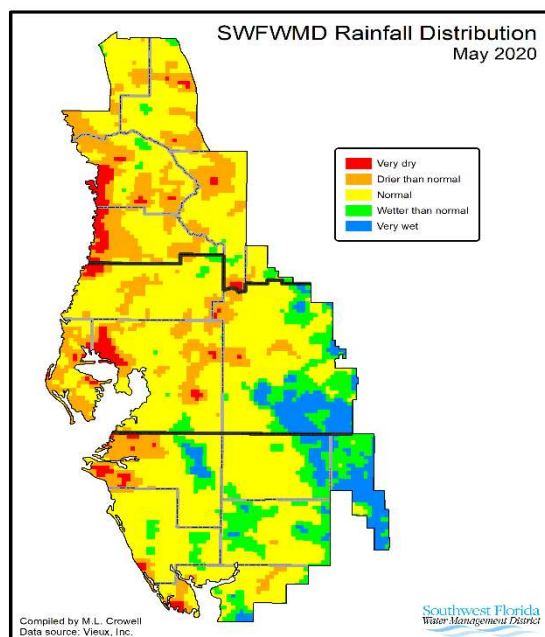
**Presenter:** Granville Kinsman, Hydrologic Data Manager

## SUMMARY OF CONDITIONS

May historically marks the last month of the eight-month dry season (October through May) and monthly rainfall totals were within the normal range in all three regions of the District.

- **Rainfall:** May totals were within the normal range in the northern and central regions, while at the upper end of the normal range in the southern region. The District-wide 12-month cumulative rainfall totals improved in May, ending the month at a deficit of only 0.28 inch below the long-term historical average. The rainfall deficit remains greater in the southern counties at 3.59 inches below the mean.
- **Streamflow:** Monthly data indicates flow increased at seven monitoring stations, while it decreased at five compared to last month. Ten stations ended the month within the “normal” range of historical values, while two were “above-normal”. Regional streamflow, based on three index rivers, was considered “normal” in all three regions of the District.
- **Groundwater:** Monthly aquifer level data indicates that regional levels declined in the northern and central regions of the District, while they increased in the southern region, compared to last month. The northern and central regions ended the month in the “normal” range, while the southern region was within the “above-normal” range.
- **Lake Levels:** Water level data indicates that regional lake levels declined in all four lake regions of the District compared to last month. The Tampa Bay and Polk Uplands regions ended the month with levels within the “normal” range, while the northern and Lake Wales Ridge regions ended the month with “below-normal” levels.
- **Overall:** Below-average May rainfall resulted in declining hydrologic conditions in the northern counties. In the southern counties, mild to moderate drought conditions have shown significant improvement from increased rainfall in April and May, although a rainfall deficit continues there.

## RAINFALL



Attachment: June recap\_hydrologic conditions (5107 : Hydrologic Conditions)

### RELATIONSHIP OF MAY 2020 RAINFALL TO HISTORICAL RAINFALL AVERAGE

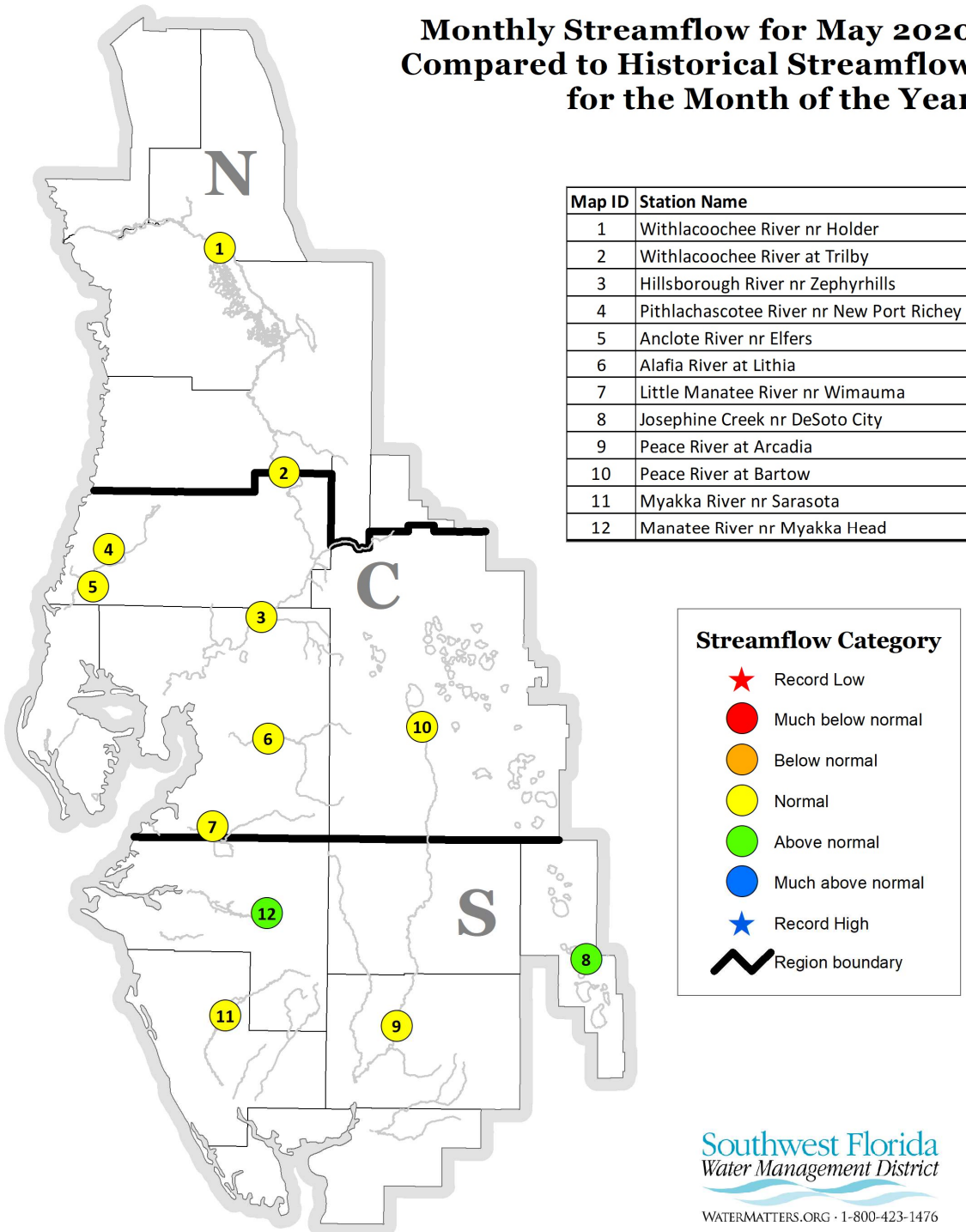
Regional Summary (in inches):

Region	MAY 2020 Average Rainfall	Historical Average For MAY	Departure From Historical Average	Cumulative 12-month Rainfall JUN 2019 – MAY 2020	Historical 12-month Cumulative Rainfall	Departure From Historical 12-month Cumulative
Northern Counties	2.46	3.68	-1.22	54.83	53.61	1.22
Central Counties	3.06	3.40	-0.34	54.15	52.43	1.72
Southern Counties	4.38	3.72	0.66	48.82	52.41	-3.59
District All Counties	3.35	3.59	-0.24	52.47	52.75	-0.28



# STREAMFLOW

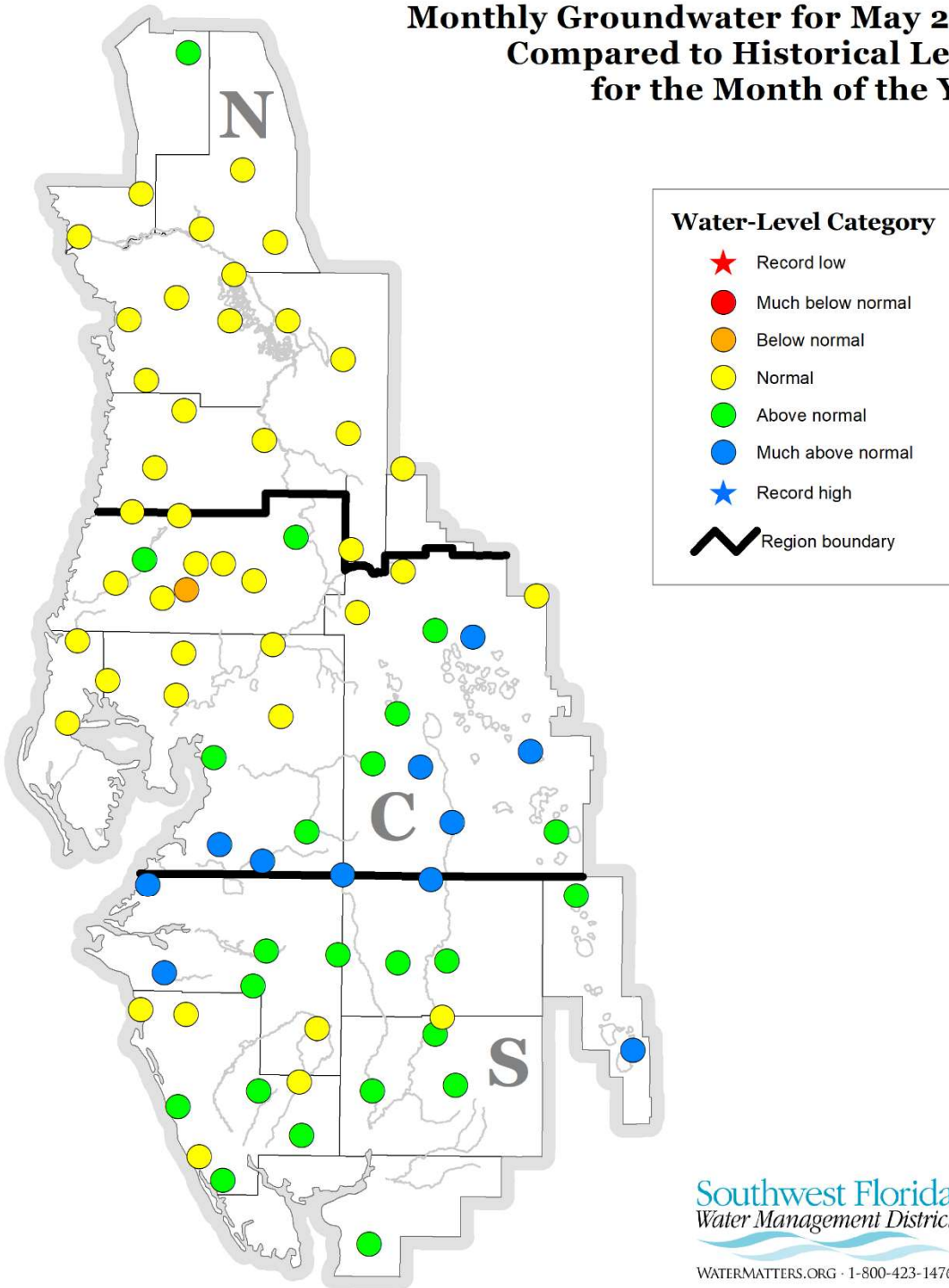
## Monthly Streamflow for May 2020 Compared to Historical Streamflow for the Month of the Year



Attachment: June recap\_hydrologic conditions (5107 : Hydrologic Conditions)

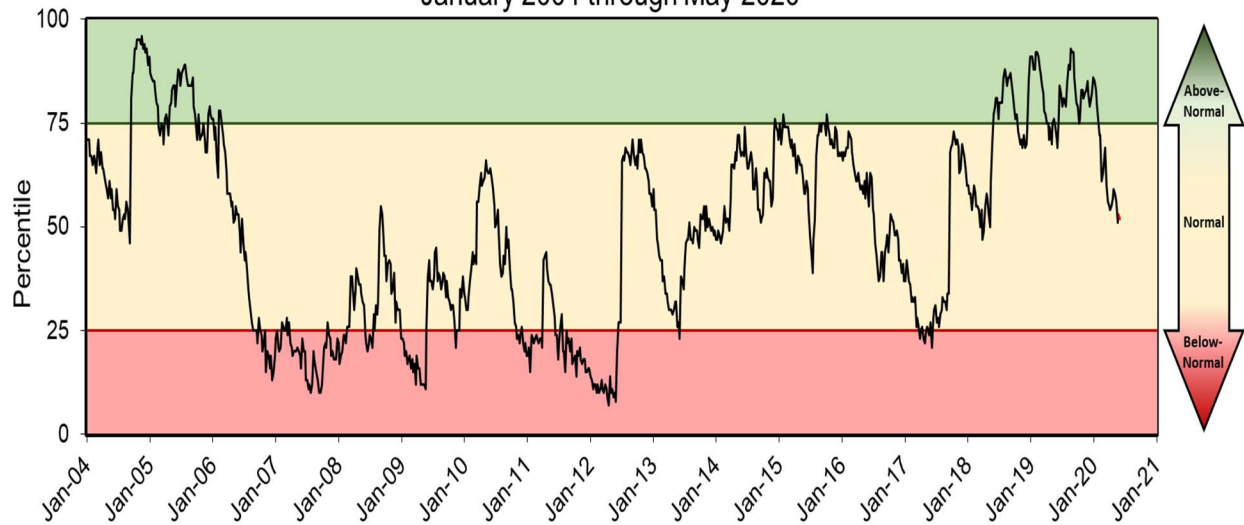
# GROUNDWATER

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

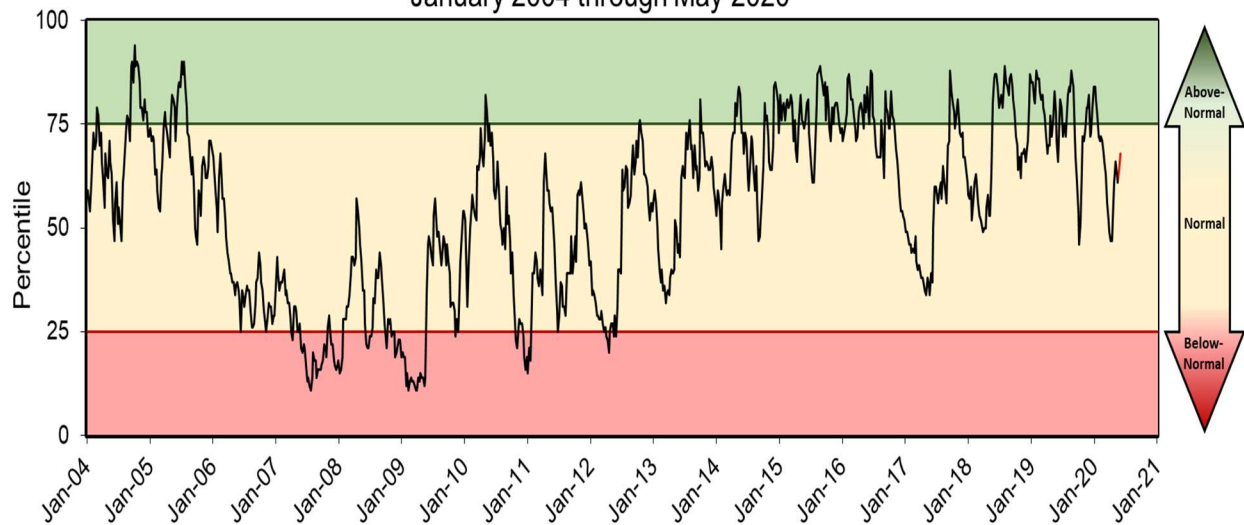


## GROUNDWATER (Continued)

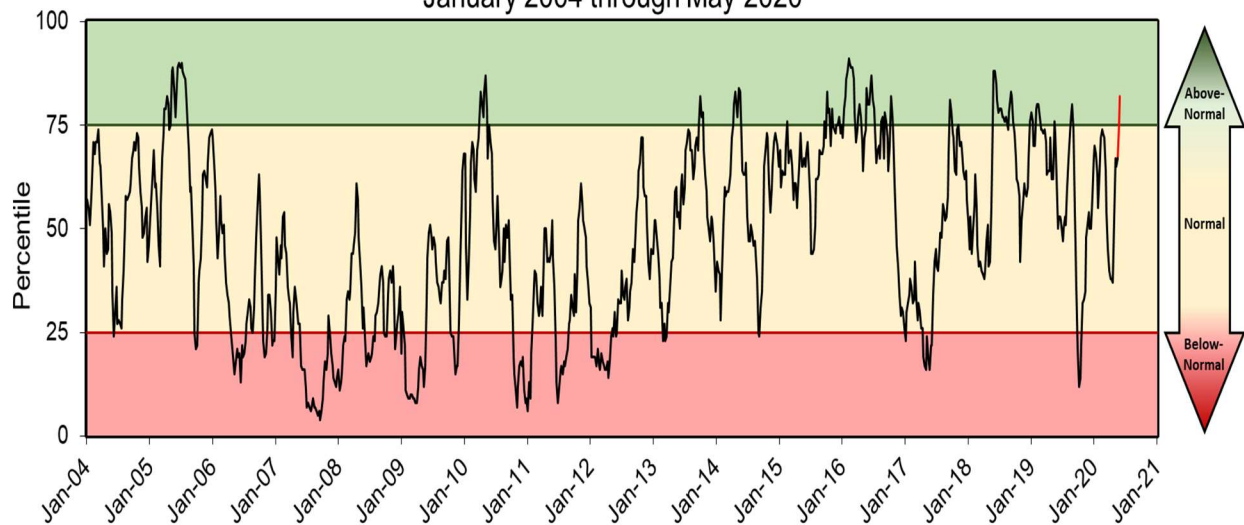
Groundwater Levels: Northern Counties  
January 2004 through May 2020



Groundwater Levels: Central Counties  
January 2004 through May 2020



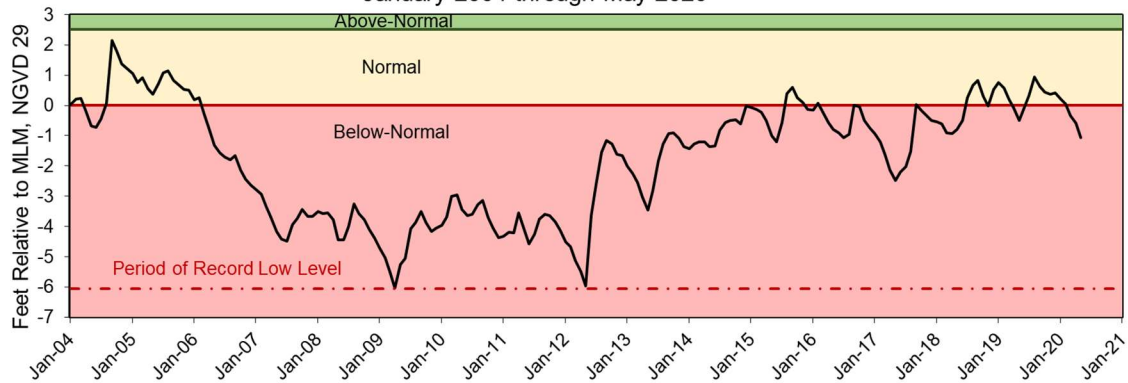
Groundwater Levels: Southern Counties  
January 2004 through May 2020



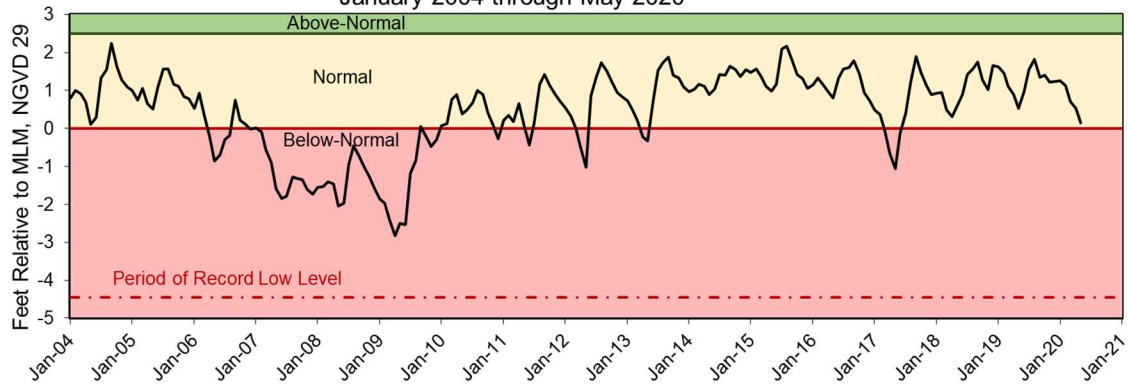
Attachment: June recap\_hydrologic conditions (5107 : Hydrologic Conditions)

# LAKES

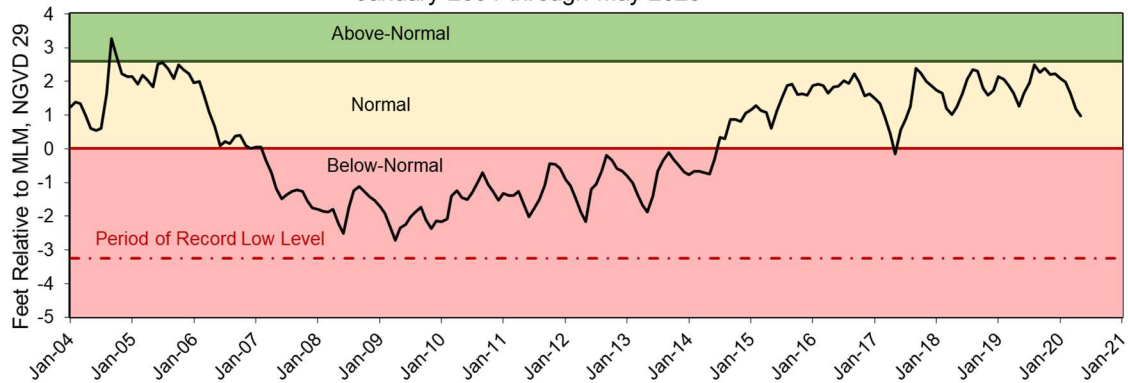
Surface Water Levels: Northern Lakes  
January 2004 through May 2020



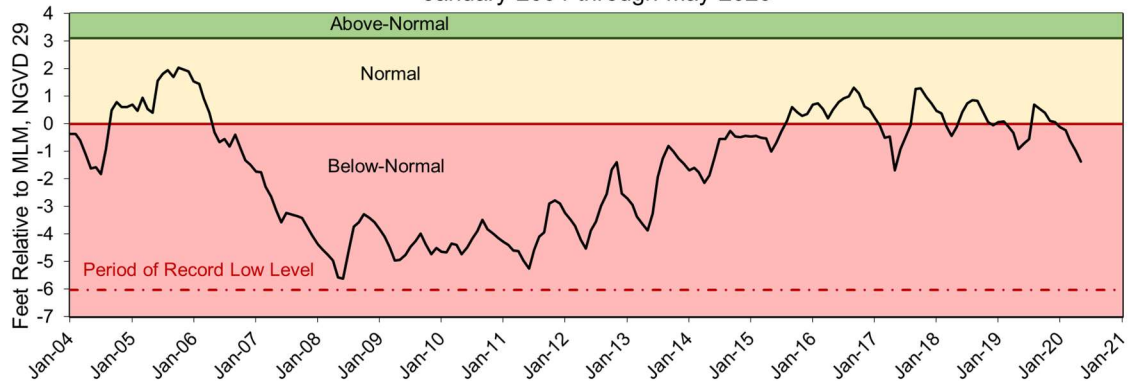
Surface Water Levels: Tampa Bay  
January 2004 through May 2020



Surface Water Levels: Polk Uplands  
January 2004 through May 2020



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

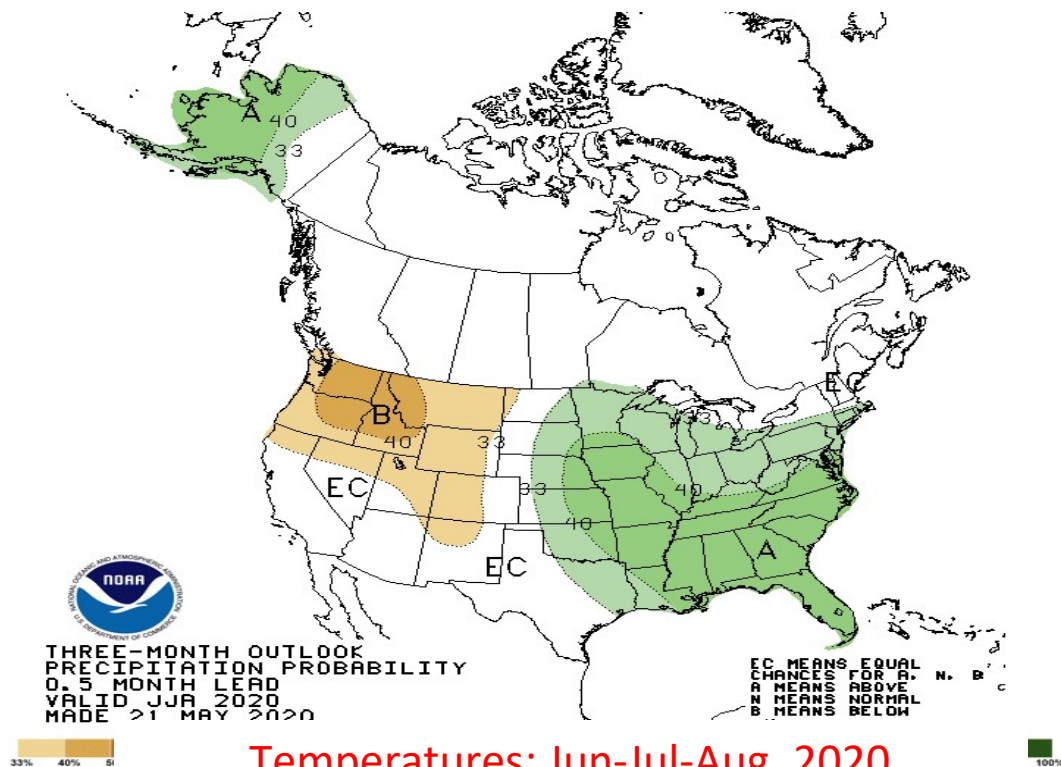


Attachment: June recap\_hydrologic conditions (5107 : Hydrologic Conditions)

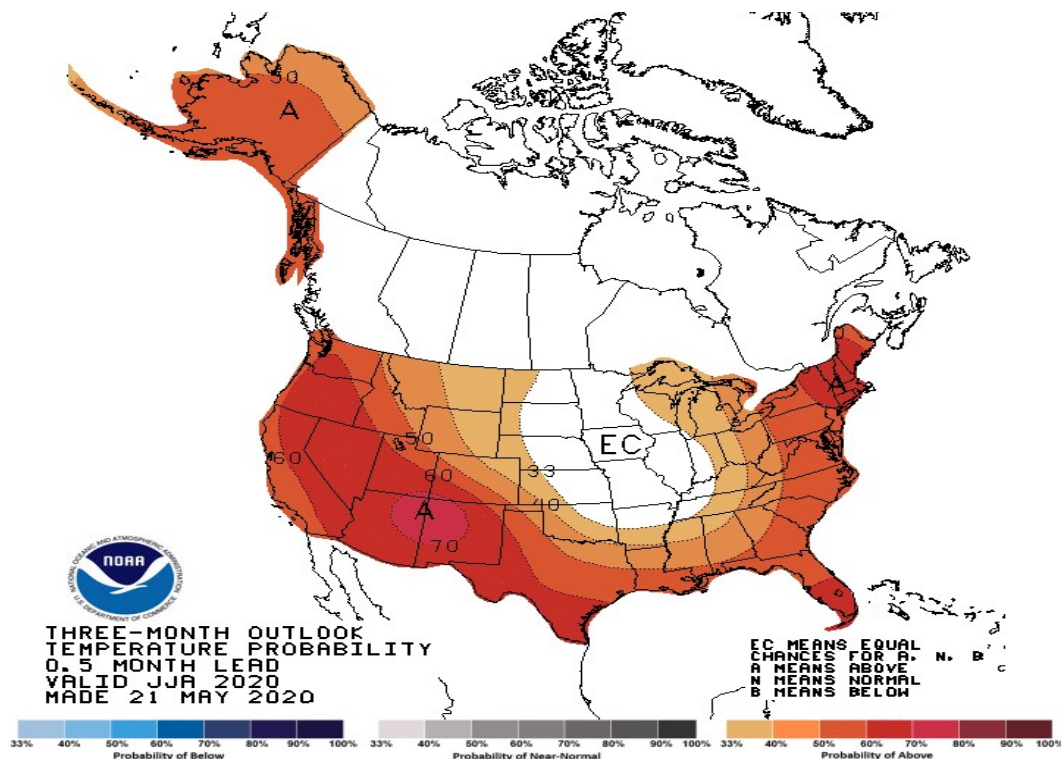


# NOAA THREE-MONTH WEATHER FORECAST

## Precipitation: Jun-Jul-Aug\_2020



## Temperatures: Jun-Jul-Aug\_2020



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

**June through August:** The three-month forecast, as of May 21, 2020, predicts above-normal rainfall through the District during the composite three month period of June through August. The temperature forecast for the same time-period indicates above-normal temperatures in all three regions of the District. For more information log on to the CPC's website at: <https://www.cpc.ncep.noaa.gov/products/predictions/90day/>

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

**June 23, 2020**

***Routine Report***

**Significant Activities**

Staff Recommendation:

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

Presenter: Jerry L. Mallams, P.G., Operations and Land Management Bureau Chief



## **Significant Activities**

This report provides monthly information through May 23, 2020 on significant Operations and Land Management projects and programs. The report provides a brief description and status of significant activities associated with the projects that have recently occurred or are about to happen.

### **Land Management**

- Applied prescribed fire to 18,458 acres of conservation lands.
- Removed 1,007 feral hogs from District lands.
- Treated invasive exotic vegetation on 25,832 acres.
- Land resource-based revenue totals \$175,684.

### **Land Resources/Land Use and Protection**

#### **Issued Special Use Authorization:**

- Pasco Sheriff's Office for access to the Green Swamp meeting facility for up to 10 participants to conduct SWAT training with Covid-19 Condition.
- Manatee County Parks & Natural Resources Department and National Oceanic and Atmospheric Administration for vehicle access to the Rock Ponds Tract to perform one-day sampling events as part of the Reference Vegetation Sampling for the RESTORE Robinson Preserve Wetlands Restoration Project for up to four participants with Covid-19 Condition.
- Florida Fish and Wildlife Conservation Commission for vehicle access to Chassahowitzka and Weekiwachee Preserves to install bear hair snag corrals to collect hair samples.
- Lisa Mosely for vehicle access to Halpata Tastanaki Preserve to retrieve hog hunting dogs utilized on the adjacent Florida Greenway for up to three participants.
- Renewal amendment with Manatee County Sheriff's Office extending term of cattle grazing agreement for eight additional years at Rock Ponds site adjacent to County Jail.
- Renewal amendment with Andy Miksa Honey Farm extending term of apiary agreement at Chito Branch Reserve for two additional years.
- Two new apiary agreements with Sebashtion Houston at Weekiwachee Preserve.
- Extended License Agreement for Pasco County to continue progress on Ridge Road Extension in anticipation of quit claim deed delivered by the District going to the County Board on their June agenda.
- Continued movement towards closing on the purchase of the SHARP/TR 9-5 monitor well from Hillsborough County. This includes placing this matter on the County Board agenda for June 17, 2020.
- Reopened Weeki Wachee Preserve for day use to the public on May 8, 2020 after closure by the District in early April due to citizens gathering in mass numbers in violation of the CDC guidelines and posted restrictions.

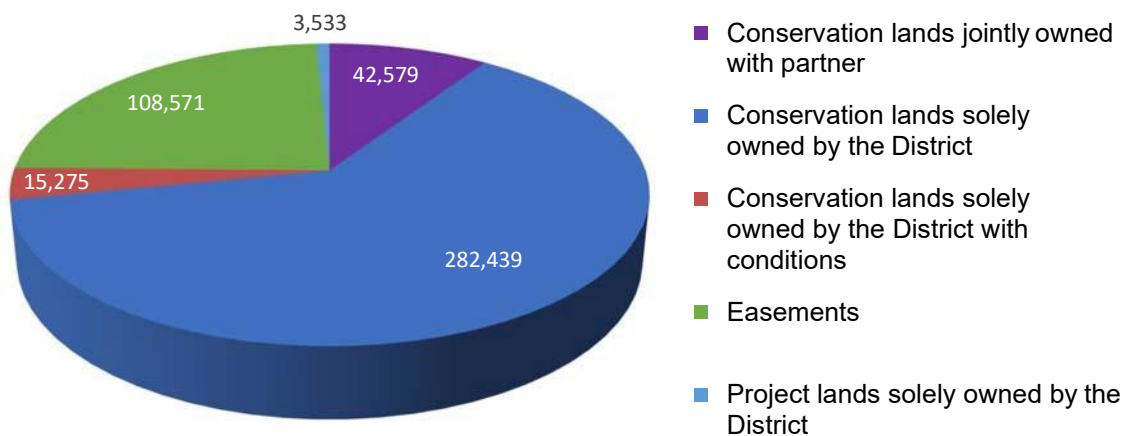
All volunteer hours were conducted in a manner consistent with the direction of Governor Ron

DeSantis to uphold the Centers for Disease Control and Prevention guidance on social distancing by avoiding gatherings larger than 10 people and distancing themselves a minimum of six feet from others. Volunteers provided 321 hours of service at a value of approximately \$7,562.76 to the District's conservation/recreation lands. Volunteer services included campground maintenance, trash removal, fence repair, mowing, and other miscellaneous tasks to assist in recreation and land management duties.

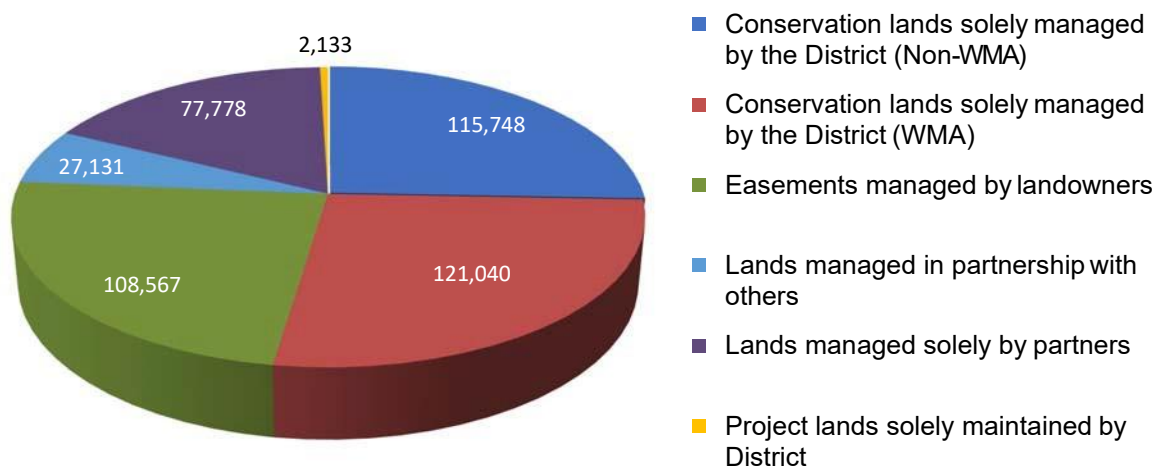
All District campgrounds were closed during this time period.

The following is a breakdown of District land interests:

### District Land Ownership Total Acres: 452,397



### Land Management and Maintenance Total Acres: 452,397



#### Staff Recommendation:

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

# OPERATIONS, LANDS, AND RESOURCE MONITORING COMMITTEE

June 23, 2020

## Routine Report

### Structure Operations

Summary of gate status and water levels for select water control structures on June 1, 2020. Refer to Exhibit A for District Structure Sites Location Map.

#### Tampa Bypass Canal

Water Body Name	Structure Name	Water Elevation	Operational Range		Gate Status
			High	Low	
Hillsborough River	S-155	21.90	38.0	21.0	Open
Upper Pool	S-159	21.13	38.0	21.0	Closed
Middle Pool	S-161	13.83	15.0	12.0	Closed
Lower Pool	S-160	9.68	11.0	9.0	Closed

#### Hillsborough River Watershed

Water Body Name	Structure Name	Water Elevation	Operational Range		Gate Status
			High	Low	
Lake Thonotosassa	Flint Creek	35.03	36.1	33.6	Closed

#### Lake June-in-Winter

Water Body Name	Structure Name	Water Elevation	Operational Range		Gate Status
			High	Low	
June-in-Winter	G-90	72.90	74.4	72.1	Closed

#### North Winter Haven Chain of Lakes

Water Body Name	Structure Name	Water Elevation	Operational Range		Gate Status
			High	Low	
Lake Smart	P-6	126.86	127.75	123.50	Closed
Lake Henry	P-5	124.32	125.50	123.00	Closed
Lake Fannie	P-7	123.52	124.75	122.50	Closed
Lake Hamilton	P-8	119.30	120.50	118.00	Closed

#### Peace River Watershed

Water Body Name	Structure Name	Water Elevation	Operational Range		Gate Status
			High	Low	
Lake Hancock	P-11	97.19	102.1	96.6	Open

**Alafia River Watershed**

Water Body Name	Structure Name	Water Elevation	Operational Range		Gate Status
			High	Low	
Medard Reservoir	Medard	57.86	58.2	56.6	Closed

**Rocky Creek System**

Water Body Name	Structure Name	Water Elevation	Operational Range		Gate Status
			High	Low	
Lake Pretty	Pretty	42.52	43.50	41.00	Closed
Lake Armistead	Armistead	40.21	43.20	39.70	Closed

**Brooker Creek System**

Water Body Name	Structure Name	Water Elevation	Operational Range		Gate Status
			High	Low	
Lake Tarpon	S-155	2.46	3.10	1.50	Closed

**Sawgrass Lake**

Water Body Name	Structure Name	Water Elevation	Operational Range		Gate Status
			High	Low	
Sawgrass Lake	Sawgrass	3.62	3.20	3.00	Closed

**Withlacoochee River Watershed**

Water Body Name	Structure Name	Water Elevation	Operational Range		Gate Status
			High	Low	
Lake Rousseau	Inglis Main	26.73	27.10	25.60	Closed
Lake Rousseau	Inglis Bypass	26.73	27.10	25.60	Open

**Tsala-Apopka Chain of Lakes**

Water Body Name	Structure Name	Water Elevation	Operational Range		Gate Status
			High	Low	
Hernando Pool	S-353	35.93	38.10	36.40	Closed

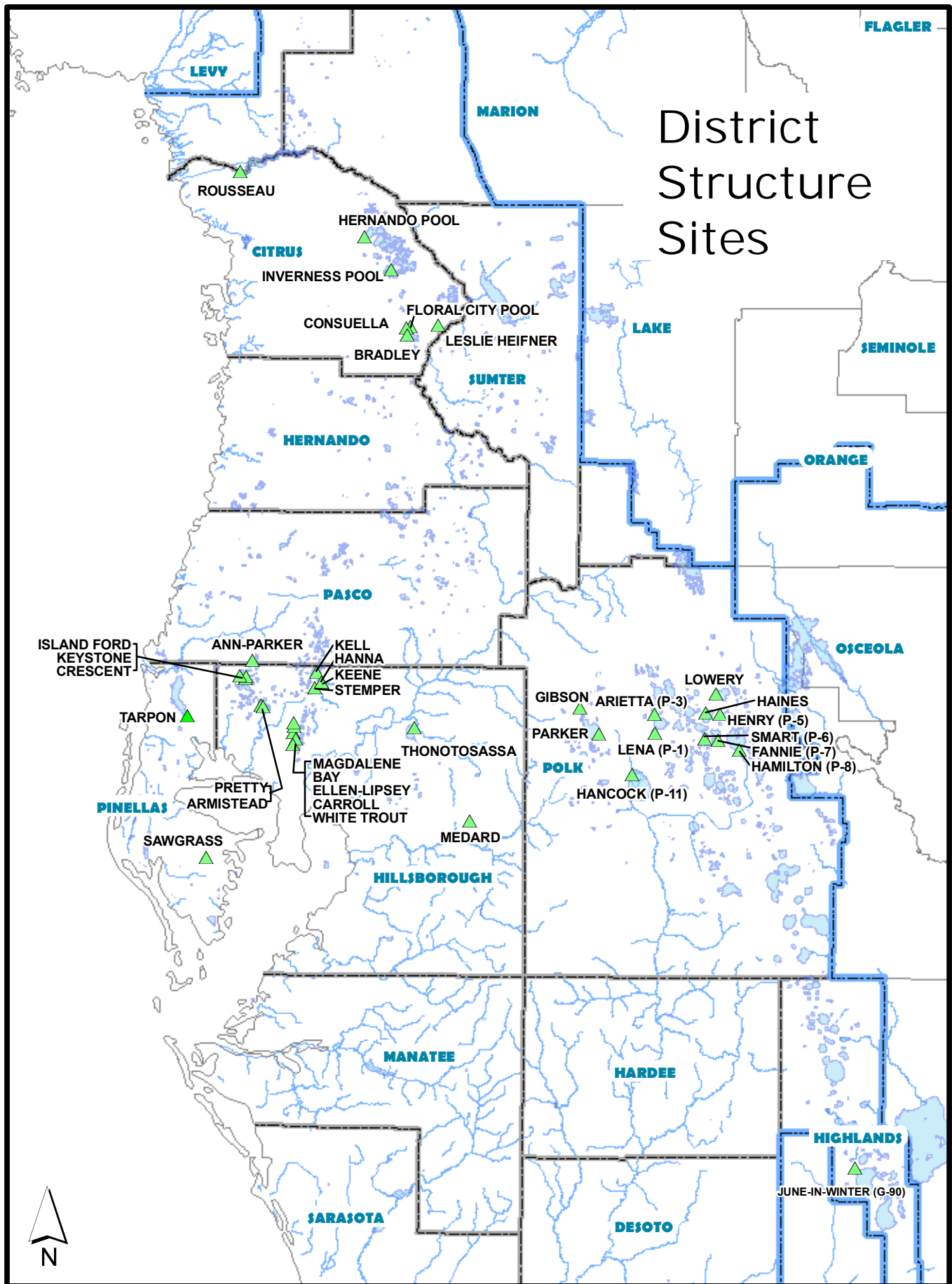
\*Elevations above referenced to NAVD88 datum

Staff Recommendation:

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

Presenter: Jerry L. Mallams, P.G., Operations and Land Management Bureau Chief

Exhibit A



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

**June 23, 2020**

***Routine Report***

**Surplus Lands Update**

***Purpose***

This report provides a status on the District's surplus lands program. Information is through June 2, 2020.

***Background***

In 2011, at the direction of the Governing Board, the District began a regular surplus lands assessment and sales of surplus lands program. The table below shows the status of the parcels declared surplus by the Governing Board.

<b>Surplus Lands Status</b>	<b>Acres</b>	<b>Compensation</b>
Sold, Exchanged or Transferred	1,761	\$8,745,719
Closing Pending		
Marketed by District (Annutteliga Hammock lots)	33	
Marketed by Broker	968	
Not Marketed	2,251	
<b>Total</b>	<b>5,013</b>	<b>\$8,745,719</b>

<b>Sold from 5/3/2020 to 6/2/2020</b>				
SWF Parcel No.	Date Closed	Acres	Contract Price	Appraised Value
None	N/A	0	\$0	\$0
<b>Total</b>		<b>0</b>	<b>\$0</b>	<b>\$0</b>

**Staff Recommendation:**

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

**Presenters:** Jerry L. Mallams, P.G. Operations and Land Management Bureau Chief and  
Ellen Morrison, Operations and Land Management Assistant Bureau Chief





## Governing Board Meeting June 23, 2020

<b>REGULATION COMMITTEE</b>
-----------------------------

### ***Discussion Items***

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### ***Submit & File Reports – None***

### ***Routine Reports***

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**REGULATION COMMITTEE**

**June 23, 2020**

***Discussion Item***

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

Staff Recommendation:

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

**REGULATION COMMITTEE**

**June 23, 2020**

***Discussion Item***

**Consider Water Shortage Order(S) as Necessary**

Staff continues to monitor water resource and supply conditions to determine if any actions would be prudent. Since Board-issued water shortage orders must be discussed in a noticed public meeting prior to implementation, this agenda item is included as a contingency provision. It allows the Governing Board to immediately consider any action that staff may recommend based on regional data to be reviewed on June 11, 2020.

**Staff Recommendation:**

Recommendations, if any, will be presented at the Governing Board meeting June 23, 2020 based on then-current conditions and predictions.

**Presenter:** Darrin Herbst, P.G., Bureau Chief, Water Use Permit Bureau

**REGULATION COMMITTEE**

**June 23, 2020**

***Discussion 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

**REGULATION COMMITTEE**

**June 23, 2020**

***Routine Report***

**Individual Permits Issued by District Staff**

Please see the attached report.

Staff Recommendation:

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

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



## INDIVIDUAL PERMITS ISSUED: ERPS – MAY 2020

PERMIT NUMBER	PROJECT NAME	COUNTY	DESCRIPTION	TOTAL PROJECT ACRES	WETLAND ACRES	WETLAND ACRES IMPACTED	WETLAND MITIGATION ACRES
43043530.005	Talon Preserve - Phases 4, 5 and 6 (fka Palmer Ranch 6B)	Sarasota	Construction of a stormwater management system serving a 228.83-acre residential subdivision	228.83	61.42	3.57	2.50
43020580.077	SR 93 (I-75) at US 301 Interchange from north of SR 64 to north of US 301	Manatee	Construction of a stormwater management system serving proposed improvements and widening of a 4.45-mile segment of I-75 (from north of SR 64 to north of US 301)	299.73	76.17	9.51	0.00

***Wetland Mitigation Acres may be zero or less than Wetland Acres Impacted for a variety of reasons. Some of those reasons are: impacted wetlands require no mitigation by rule (e.g., upland cut manmade ditches, etc.); quality of the impacted wetlands is less than the quality of proposed mitigation; or mitigation is provided through a different permit or a mitigation bank.***

## INDIVIDUAL PERMITS ISSUED: WUPs – MAY 2020

PERMIT NUMBER	PROJECT NAME	COUNTY	DESCRIPTION	USE TYPE	PREVIOUS PERMITTED QUANTITY	NEW PERMITTED QUANTITY	DURATION (YEARS)
20003764.009	Longino Ranch	DeSoto/ Sarasota	Modification to increase quantities	Agricultural	1,218,600	1,220,400	1.5
20006392.006	City of Bradenton	Manatee	Renewal with no change in quantities	Public Supply	6,950,000	6,950,000	30

**REGULATION COMMITTEE**

**June 23, 2020**

***Routine Report***

**Overpumpage Report**

Please see the attached report.

Staff Recommendation:

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

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

# Overpumpage Report April 2020

## Under Review <sup>(1)</sup> Permit Application In-House <sup>(2)</sup> Forwarded to OGC <sup>(3)</sup>

Permit No.	Permit Holder	Use Type	Permitted Quantity (gpd)	Original Report Date Annual Avg. Use Percent Over	Current Report Date Annual Avg. Use Percent Over	Service Office
<b><i>New From Previous Report</i></b>						
9670.006	Ace Crescent Oaks, Inc. (Ace Crescent Oaks Country Club) <sup>1</sup>	Recreation - Lawn/Landscaping and Golf Course	285,800	2/1/2020 310,852 gpd 8.77%	04/01/2020 316,666 gpd 10.80%	Tampa
1616.009	Lake Region Mobile Home Owners (Lake Region Village) <sup>1</sup>	Public Supply	91,500	2/1/2020 107,699 gpd 17.70%	04/01/2020 118,315 gpd 29.31%	Bartow
9666.003	Heiler Family Limited Partnership (Southfork Mobile Homes) <sup>1&amp;2</sup>	Public Supply	53,400	1/1/2020 57,507 gpd 7.7%	04/01/2020 58,904 gpd 10.23%	Brooksville

(1) Preliminary determination - permit is in non-compliance and file is under review by Regulation staff.

(2) A permit application is in-house for review.

(3) The non-compliance matter has been referred to the Office of General Counsel (OGC).

Attachment: April 2020 Pumpage for June-2020 Routine GB Reports - Overpumpage Report (5105 :

# Overpumpage Report April 2020

## Under Review <sup>(1)</sup> Permit Application In-House <sup>(2)</sup> Forwarded to OGC <sup>(3)</sup>

Permit No.	Permit Holder	Use Type	Permitted Quantity (gpd)	Original Report Date Annual Avg. Use Percent Over	Current Report Date Annual Avg. Use Percent Over	Service Office
<b><i>Continuing From Previous Report</i></b>						
3707.008	Bayou Club and Bardmoor Golf Club <sup>1</sup>	Recreation - Lawn/Landscaping and Golf Course	512,000	1/1/2020 579,774 gpd 13.85%	03/01/2020* 559,857 gpd 9.35%	Tampa
7139.004	Buttonwood Bay Utilities <sup>1</sup>	Public Supply – Modular Home Community	203,000	9/1/2019 216,808 gpd 6.80%	04/01/2020 228,306 gpd 12.47%	Bartow
10923.001	Spruce Creek Golf, LLC. <sup>3</sup>	Recreation – Golf Course	163,600	4/1/2019 513,085 gpd 213.62%	04/01/2020 524,518 gpd 224.50%	Brooksville
1854.008	Panther Trails CDD <sup>3</sup>	Recreation - Lawn/Landscaping	4,600	02/01/2019 11,573 gpd 151.59%	04/01/2020 7,953 gpd 12.47%	Tampa
12900.002	Minto Bradenton LLC. (Perico Island Development) <sup>3</sup>	Recreation - Lawn/Landscaping	130,500	11/01/2017 196,759 gpd 50.77%	04/01/2020 143,441 gpd 9.92%	Sarasota
1156.012	Bay Laurel Center Public Water Supply System <sup>2&amp;3</sup>	Public Supply	2,555,000	09/01/2016 2,696,799 gpd 5.55%	04/01/2020 3,498,310 gpd 36.92%	Brooksville
7002.004	MHC FR Utility Systems, LLC. <sup>2&amp;3</sup>	Public Supply	97,100	04/01/2015 104,929 gpd 8.06%	04/01/2020 148,089 gpd 52.51%	Tampa

(1) Preliminary determination - permit is in non-compliance and file is under review by Regulation staff.

(2) A permit application is in-house for review.

(3) The non-compliance matter has been referred to the Office of General Counsel (OGC).

\*Missing March 2020 data

Attachment: April 2020 Pumpage for June-2020 Routine GB Reports - Overpumpage Report (5105 :





**Governing Board Meeting  
June 23, 2020**

<b>GENERAL COUNSEL'S REPORT</b>
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***Discussion Items***

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***Submit & File Reports – None***

***Routine Reports***

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**GENERAL COUNSEL'S REPORT**

**June 23, 2020**

***Discussion Item***

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

Staff Recommendation:

Presenter: Karen E. West, General Counsel

**GENERAL COUNSEL'S REPORT**

**June 23, 2020**

***Routine Report***

**June 2020 Litigation Report**

Staff Recommendation:

Presenter: Karen E. West, General Counsel

**SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT LITIGATION REPORT**  
June 2020

**OPEN ENFORCEMENT CASES**

50 Cases as of June 1, 2020

Case Style	Court/Case No.	Attorney	Description	Date Opened	Date Closed
<b>Division of Administrative Hearings (DOAH) Enforcement, Permit, and Agency Action Challenges</b>					
Denlinger v. Summit View, LLC, and SWFWMD	N/A	J. Fussell A. Witherup	Administrative Challenge – ERP	8/20/19	9/6/19 – Dismissed (Pending Appeal)
SWFWMD v. James Marcus Vernon, P.E., et al	DOAH 20-000580	E. Fernandez	Challenge to Administrative Complaint and Order – ERP	1/31/20	6/23/20 – Settled (Pending Approval)
Walden Pointe HOA v. SWFWMD	DOAH 20-000896	J. Fussell A. Dhand	Administrative Challenge – ERP	2/04/20	
EDRO Holdings, LLC v. SWFWMD	N/A	J. Fussell	Administrative Challenge – ERP	6/3/20	
<b>County Court Litigation</b>					
SWFWMD v. USSI, Inc.	Hernando County Case No. 20-CC-000413	E. Fernandez M. Albrecht	Breach of Contract	5/01/2020	6/1/20 – Settled
<b>Circuit Court Litigation</b>					
Uranowski v. SWFWMD	Hernando County Case No. 16-CA-976	T. Gonzalez (outside counsel)	Employment Discrimination	9/30/16	
Heritage Lake Park CDD v. SWFWMD, et al.	Charlotte County Case No. 18-CA-1191	C. Tumminia	Foreclosure (delinquent ad valorem taxes)	12/21/18	
Cow Hammock, LLC v. Suggs & SWFWMD	Sumter County Case No. 19-CA-142	C. Tumminia	Quiet Title	4/22/19	
SWFWMD v. Jacobs Engineering Group, Inc.	Hernando County Case No. 2019-CA-001105	M. McNeil	Breach of Contract and Professional Malpractice	9/27/19	

<b>SWFWMD v. The Links at River Ridge</b>	<b>Pasco County Case No. 2019-CA-003331</b>	<b>C. Tumminia</b>	<b>Petition for Enforcement and Complaint for Civil Remedies – Unauthorized Water Use</b>	<b>10/8/19</b>	<b>5/19/20 – Settled</b>
<b>SWFWMD v. Kelly Family Holdings, LLC</b>	<b>Charlotte County Case No. 19001087CA</b>	<b>C. Tumminia</b>	<b>Petition for Enforcement and Complaint for Civil Remedies – WUP Overpumpage</b>	<b>10/15/19</b>	
<b>Duke Energy Florida, LLC v. SWFWMD, et al.</b>	<b>Pasco County Case No. 2019-CA-003821</b>	<b>J. Fussell</b>	<b>Petition in Eminent Domain</b>	<b>12/05/19</b>	
<b>SWFWMD v. Etcetera, Etc., Inc.</b>	<b>DeSoto County Case No. 2020-CA-000017</b>	<b>C. Tumminia M. Albrecht</b>	<b>Petition for Enforcement and Complaint for Civil Remedies – ERP</b>	<b>1/15/2020</b>	
<b>SWFWMD v. Carl Douglas Jr.</b>	<b>Charlotte County Case No. 20CA0112</b>	<b>E. Fernandez C. Tumminia</b>	<b>Petition for Enforcement and Complaint for Civil Remedies – Well Construction Violations</b>	<b>2/06/2020</b>	
<b>SWFWMD v. Holloway Park Foundation, Inc.</b>	<b>Polk County Case No. 20-CA-000632</b>	<b>A. Vining</b>	<b>Petition for Enforcement and Complaint for Civil Remedies – ERP</b>	<b>2/19/2020</b>	
<b>William Laslo and Kyong E. Laslo v. SWFWMD, et al.</b>	<b>Hillsborough County Case No. 20-CA-1008</b>	<b>E. Fernandez M. Albrecht</b>	<b>Complaint for Negligence, Trespass, Breach of Duty to Warn or Avert a Dangerous Condition, Inverse Condemnation and Nuisance – ERP</b>	<b>2/24/2020</b>	<b>5/29/20 - Dismissed</b>

SWFWMD v. Waylon J. Howard	Hillsborough County Case No. 20CA-00230	E. Fernandez M. Albrecht	Petition for Enforcement and Complaint for Civil Remedies – Well Construction Violations	3/12/2020	
SWFWMD v. MGM of West Florida, LLC	Manatee County Case No. 20CA-001336	E. Fernandez A. Dhand	Petition for Enforcement and Complaint for Civil Remedies – ERP	4/01/2020	
SWFWMD v. Straubel, Bruce	Polk County Case No. <i>Pending</i>	M. Albrecht C. Tumminia	Petition for Enforcement and Complaint for Civil Remedies – ERP	05/18/2020	
<b>Federal District Court Litigation</b>					
Gilberti v. DeSantis, SWFWMD, et al.	U.S. Middle Dist. FL. 2:19-282-FtM	E. Fernandez C. Tumminia	R.I.C.O.	5/28/19	5/15/20 – Dismissed (Pending Rehearing)
Michael Lapham v. SWFWMD & FWC	US Middle Dist. FL. Case No. 5:19-cv-00579	A. Vining M. Bray	Civil Rights – Americans with Disabilities Act	1/10/2020	
<b>Appeals</b>					
Harry and Janet Denlinger v. SWFWMD	Second District Court of Appeal Case No. 2D19-3835	M. Bray J. Fussell A. Witherup	Appeal of Final Order of Dismissal with Prejudice	10/04/2019	
<b>Delegated Consent Orders</b>					
<b>NONE</b>					



**GENERAL COUNSEL'S REPORT**

**June 23, 2020**

***Routine Report***

**June 2020 Rulemaking Update**

Staff Recommendation:

Presenter: Karen E. West, General Counsel

**RULEMAKING UPDATE**  
**JUNE 2020**  
**PROPOSED RULES & AMENDMENTS**

<b>RULE</b>	<b>INITIATION DATE</b>	<b>NEXT SCHEDULED ACTION</b>	<b>BOARD PROJECTED/ APPROVED DATE</b>
1. Initiation and Approval of Rulemaking to Amend Rule 40D-8.041, F.A.C., to Delete a Portion of the Minimum Flow Provisions for the Upper and Lower Pithlachascotee River	March 2020	Effective Approx. June 2020	March 2020
2. Initiation and Approval of Rulemaking to Amend Rule 40D-8.041, F.A.C., to Delete a Portion of the Minimum Flow Provisions for the Crystal River/Kings Bay System	March 2020	Effective Approx. June 2020	March 2020
3. Initiation and Approval of Rulemaking to Amend Rule 40D-8.624, F.A.C., to Adopt Revised Minimum and Guidance Levels for Lake Marion in Levy County	April 2020	Effective Approx. July 2020	April 2020
4. Initiation and Approval of Rulemaking to Amend Rule 40D-2.091, F.A.C., to Update the Water Use Permit Applicant's Handbook, Part B	May 2020	Effective Approx. August 2020	May 2020
5. Initiation and Approval of Rulemaking to Amend Rule 8.624, F.A.C. to Adopt revised Minimum and Guidance Levels for Lake Linda in Pasco County	August 2020	Initiation and Approval, August 2020 Governing Board meeting	August 2020

Attachment: 6-2020 General Counsel - Rulemaking Update (for June 2020 GB-Meeting) (5101 : June 2020 Rulemaking Update)



**EXECUTIVE DIRECTOR'S REPORT**

**June 23, 2020**

***Discussion Item***

**Executive Director's Report**

Staff Recommendation:

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



**CHAIR'S REPORT**

**June 23, 2020**

***Discussion Item***

**Chair's Report**

Staff Recommendation:

Presenter: Mark Taylor, Chair

**CHAIR'S REPORT**

**June 23, 2020**

*Routine Report*

**Employee Milestones**

Staff Recommendation:

Presenter: Mark Taylor, Chair



Years of Service	Seniority Date	Preferred Full Name	Position Title	Office Location	Bureau	Anniversary Year	Next Milestone
5	06/22/2015	Matt Vinzant	Project Manager 1	Bartow	Natural Systems & Restoration	2020	06/22/2020
10	06/21/2010	Melissa Gulvin	Communications Manager	Brooksville	Communications Board Services	2020	06/21/2020
10	06/21/2010	Wendy Tipton	Business Analyst	Brooksville	Regulatory Support	2020	06/21/2020
30	06/25/1990	John Emery	Chief Advisory Environmental Scientist	Tampa	Environmental Resource Permit	2020	06/25/2020