

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

MEMORANDUM

TO: Governing Board

FROM: George T. Reeves, Governing Board Legal Counsel

DATE: January 31, 2021

RE: Final Order Number 21-001, Still v. Suwannee River Water Management District and Bradford County; SRWMD No. ERP-007-233697-2; DOAH CASE NO. 20-0091

RECOMMENDATION

Approve one of the proposed final orders enclosed as Final Order Number 21-001, Still v. Suwannee River Water Management District and Bradford County; ERP-007-233697-2; DOAH CASE NO. 20-0091.

BACKGROUND

On December 10, 2019, the District entered a notice in Environmental Resource Permit (ERP): Exemption, ERP-007-233697-2, by which it determined that the Respondent, Bradford County, Florida activities related to the repair of Southwest 101st Avenue in Bradford County, Florida met the criteria to be an exempt activity pursuant to Rule 62-330.051(4)(e), Florida Administrative Code (F.A.C.).

On or about December 23, 2019, Petitioner, Paul Still filed a Petition Requesting an Administrative Hearing Review challenging the exemption, which was referred to the Division of Administrative Hearing (DOAH) and assigned DOAH Case No. 20-0091.

On September 10-11, 2020, a final hearing was held in this matter.

On November 19, 2020, the Administrative Law Judge issued his recommended order.

In the recommended order, the Administrative Law Judge recommended that the District approve the exemption because Mr. Still had failed to meet his burden to show that the county was not entitled to the exemption.

Also in the recommended order, the Administrative Law Judge found that Mr. Still brought these proceedings for an improper purpose and therefore an award of attorneys' fees against Mr. Still was warranted. Specifically the Administrative Law Judge found:

86. The only conclusion that can be objectively drawn, given the facts of this case, is that **the action challenging the Exemption was taken primarily to harass the County and the District, for frivolous purpose, or to needlessly increase the cost of securing the Exemption.**

(Recommended Order at page 28) (Emphasis supplied)

Pursuant to Section 120.595(1)(b), F.S., once the Administrative Law Judge makes a finding of improper purpose as set out above, "The final order . . . shall award reasonable costs and a reasonable attorney's fee to the prevailing party . . .")