

in the area. However, when those culverts were then replaced (prior to the filing of the Petition) with one 30-inch culvert, matching the size of the preexisting culvert, any issues that existing water flow from the upgradient side of 101st Avenue was adversely impounded or obstructed, that the road repairs caused adverse impacts to existing surface water storage and conveyance capabilities, or that the road repairs caused adverse water quantity or flooding impacts to receiving waters and adjacent lands were eliminated. There was no evidence offered that the flow of water through the new 30-inch culvert was changed at all as a result of the completed road repairs. (Tr. Vol. 2, 308:18-21). Dr. Still provided no calculations of water flow or velocity to suggest that the road repairs will result in adverse water quantity or flooding impacts to receiving waters and adjacent lands.

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.

#### RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Suwannee River Water Management District enter a final order:

a. Approving the December 10, 2019, Environmental Resource Permit (ERP): Exemption, ERP-007-233697-2, determining that 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); and

b. Taking such action pursuant to section 120.595(1) as it deems appropriate.

c. The undersigned retains jurisdiction to determine the award of costs and attorneys' fees pursuant to section 120.595(1)(d), if the final order makes