

**AGENDA**  
**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**  
**GOVERNING BOARD MEETING AND PUBLIC HEARING**

**GoTo Webinar Link:** <https://attendee.gotowebinar.com/register/1467583453232805136>

**Call-In Number for Audio:** Toll Free 1-888-585-9008 - **Conference Room Number:** 704-019-452 #

**Public Comment Form Link:** [www.MySuwanneeRiver.com/Comments](http://www.MySuwanneeRiver.com/Comments)

Open to Public

Limited Seating Capacity and Following CDC Guidelines Regarding Social Distancing

February 9, 2021  
9:00 a.m.

District Headquarters  
Live Oak, Florida

1. Call to Order
2. Roll Call
3. Announcement of any Amendments to the Agenda by the Chair  
**Amendments Recommended by Staff:** None
4. Public Comment - (No public comments will be taken during this meeting concerning Seven Springs Water Company or Nestle Waters North America nor the recommended order the District has received from the Division of Administrative Hearings in *Seven Springs Water Company v. Suwannee River Water Management District*, DOAH Case No. 20-3581. Public Comments on this issue will be allowed at a subsequent special meeting of the Governing Board. See notice at the end of this agenda for details.)
5. Consideration of the following Items Collectively by Consent:
  - Agenda Item No. 6 - January 12, 2021 Governing Board and Workshop Minutes
  - Agenda Item No. 11 - Disposal of a Previously Surplused 2000 Massey Ferguson Tractor
  - Agenda Item No. 13 - December 2020 Financial Report
  - Agenda Item No. 20 - Updates to the Hydrologic Modeling Reports and Develop Status Assessment Technical Memos for Lakes Alto, Hampton, and Santa Fe
6. January 12, 2021 Governing Board and Workshop Minutes - **Recommend Consent**
7. Items of General Interest for Information/Cooperating Agencies and Organizations
  - A. Hydrologic Conditions Report
  - B. Cooperating Agencies and Organizations

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**GOVERNING BOARD LEGAL COUNSEL**  
**Tom Reeves**

8. Update on Legal Activities / Enforcement Status Updates

- LC Page 1      9.    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

**BUSINESS AND COMMUNITY SERVICES**  
**Steve Minnis, Deputy Executive Director**

*Administration*

- BCS Page 1      10.   Land Acquisition and Disposition Activity Report
- BCS Page 4      11.   Disposal of a Previously Surplused 2000 Massey Ferguson Tractor –  
**Recommend Consent**
- BCS Page 5      12.   Contract Number 19/20-164 Amendment, Ivey League Cleaning Services, LLC.

*Finance*

- BCS Page 6      13.   December 2020 Financial Report – **Recommend Consent**

*Information Technology*

- BCS Page 11     14.   Virtual Infrastructure Upgrade

*Resource Management*

- BCS Page 15     15.   Permitting Summary Report
- BCS Page 19     16.   Variance Request for General Works of the District Permit Application  
WOD-029-237339-1, Cothron Residence, Dixie County

*Agriculture and Environmental Projects*

- BCS Page 29     17.   Agreement with the Florida Department of Environmental Protection to  
Receive Water Quality Improvement Funds and to Enter into Agreements

**WATER AND LAND RESOURCES**  
**Tom Mirti, Deputy Executive Director**

*Land Management*

- WLR Page 1      18.   District Land Management and Twin Rivers State Forest Activity Summary

*Water Resources*

- WLR Page 5      19.   Agricultural Water Use Monitoring Report

*Water Supply / MFL*

- WLR Page 7      20.   Updates to the Hydrologic Modeling Reports and Develop Status Assessment  
Technical Memos for Lakes Alto, Hampton, and Santa – **Recommend  
Consent**

21. Lower Santa Fe and Ichetucknee MFL Status Assessment

22. Water Supply Update

**EXECUTIVE OFFICE**

**Hugh Thomas, Executive Director**

EO Page 1

23. District's Weekly Activity Reports

EO Page 10

24. Governing Board Directive Number 21-0002, Online Content Management

25. Consolidated Annual Report Update

26. Announcements

27. Governing Board Comments

Unless otherwise noted, all meetings are at District Headquarters in Live Oak, Florida

February 23, 2021 - 9:00 a.m. and February 24, 2021 (*if needed*) - 9:00 a.m.

Special Governing Board Meeting

Suwannee River Fair Pavilion

17851 NW 90th Avenue

Fanning Springs, FL 32693

*(This location is addressed out of the Trenton, Florida Post Office and therefore may come up as 17851 NW 90th Ave., Trenton, Florida 32693 if searched.)*

March 9, 2021

9:00 a.m.

Governing Board Meeting

Workshop / Committee Meetings

**Board Workshops immediately follow Board Meetings unless otherwise noted.**

28. Adjournment

Any member of the public, who wishes to address the Board on any agenda item, or any other topic, must sign up (including the completion of the required speaker forms) with the Executive Director or designee before the time designated for Public Comment. During Public Comment, the Chair shall recognize those persons signed up to speak on agenda items first. To the extent time permits, the Chair shall thereafter recognize those persons signed up to speak on non-agenda items. Unless, leave is given by the Chair, (1) all speakers will be limited to three minutes per topic, (2) any identifiable group of three persons or more shall be required to choose a representative, who shall be limited to five minutes per topic. When recognized by the Chair during Public Comment, a speaker may request to be allowed to make his or her comments at the time the Board considers an agenda item. The Chair may grant or deny such request in the Chair's sole discretion.

Definitions:

•"Lobbies" is defined as seeking to influence a district policy or procurement decision or an attempt to obtain the goodwill of a district official or employee. (112.3261(1)(b), Florida Statutes [F.S.]

•"Lobbyist" is a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. (112.3215(1)(h), F.S.)

The Board may act upon (including reconsideration) any agenda item at any time during the meeting. The agenda may be changed only for good cause as determined by the Chair and stated in the record. If, after the regular time for Public Comment, the agenda is amended to add an item for consideration, the Chair shall allow public comment on the added agenda item prior to the Board taking action thereon.

All decisions of the Chair concerning parliamentary procedures, decorum, and rules of order will be final, unless they are overcome by a majority of the members of the Board in attendance.

If any person decides to appeal any decision with respect to any action considered at the above referenced meeting and hearing, such person may need to ensure a verbatim record of the proceeding is made to include testimony and evidence upon which the appeal is made.

**NOTICE CONCERNING RECOMMENDED ORDER FROM THE DIVISION OF ADMINISTRATIVE HEARINGS IN SEVEN SPRINGS WATER COMPANY V. SUWANNEE RIVER WATER MANAGEMENT DISTRICT, DOAH CASE NO. 20-3581**

NOTICE IS GIVEN that the Suwannee River Water Management District has received a recommended order from the Division of Administrative Hearings in *Seven Springs Water Company v. Suwannee River Water Management District*, DOAH Case No. 20-3581. This case concerns Seven Springs Water Company's application for renewal water use permit No. 2-041-218202-3, for groundwater to be bottled at the plant owned by Nestle Waters North America Inc., and located at in Gilchrist County, Florida at 7100 NE CR 340, High Springs, Florida 32643.

**SPECIAL MEETING.** The Governing Board will hold a special meeting to consider the recommended order and issue a final order in the above matter. The special meeting will be held as follows: **Date and Time:** Tuesday, February 23, 2021, at 9:00 a.m. (The Governing Board anticipates concluding this meeting February 23, 2021, but if it does not, then the meeting may be continued to Wednesday, February 24, 2021, 9:00 a.m.) **Place:** Suwannee River Fair Pavilion, 17851 NW 90th Ave., in the Town of Fanning Springs, Florida (This location is addressed out of the Trenton, Florida Post Office and therefore may come up as 17851 NW 90th Ave., Trenton, Florida 32693 if searched.)

**PUBLIC COMMENTS. PUBLIC COMMENTS WILL BE TAKEN ON THE ABOVE MATTER AT THE SPECIAL MEETING.** As public comments will be taken at the above special meeting, **NO COMMENTS WILL BE TAKEN ON THIS MATTER AT THE GOVERNING BOARD'S FEBRUARY 9, 2021 REGULAR MEETING.** Please understand that as the District has now received the above recommended order, except in very limited circumstances, the Governing Board is not allowed to consider matters except those matters presented at the above special meeting.

**AGENDA**  
**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**  
**GOVERNING BOARD WORKSHOP**

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February 9, 2021  
Following Board Meeting

District Headquarters  
Live Oak, Florida

- Country Club Road Discussion **(Time Specific-1:30 p.m.)**
- Water Management District's Budget Comparison Discussion
- Water Use Permitting Discussion

SUWANNEE RIVER WATER MANAGEMENT DISTRICT  
MINUTES OF  
GOVERNING BOARD MEETING AND PUBLIC HEARING

Note: A digital recording system was used to record these proceedings and is on file in the permanent files of the District. A copy of the materials and handouts are a part of the record as if set out in full herein and are filed in the permanent files of the District.

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**Call-In Number for Audio:** Toll Free 1-888-585-9008 - **Conference Room Number:** 704-019-452 #

**Public Comment Form Link:** [www.MySuwanneeRiver.com/Comments](http://www.MySuwanneeRiver.com/Comments)

Open to Public

Limited Seating Capacity and Following CDC Guidelines Regarding Social Distancing

January 12, 2021  
9:00 a.m.

District Headquarters  
Live Oak, Florida

Agenda Item No. 1 – Call to Order. The meeting was called to order at 9:02 a.m.

Agenda Item No. 2 – Governing Board Member Oath of Office. Tommy Reeves, Board Legal Counsel, administered the Oath of Office to Mr. Larry Thompson, Suwannee River Water Management District’s newly appointed Board Member.

Agenda Item No 3 – Roll Call

**Governing Board**

Seat	Name	Office	Present	Not Present
Aucilla Basin	Vacant		-	-
Coastal River Basin	Richard Schwab	Vice Chair	X	
Lower Suwannee Basin	Larry K. Thompson		X	
Santa Fe & Wacc. Basins	Vacant		-	-
Upper Suwannee Basin	Larry Sessions		X	
At Large	Virginia H. Johns	Chair	X	
At Large	Virginia Sanchez		X	
At Large	Charles Keith	Sec./Treas.	X	
At Large	Harry Smith		X	

**Governing Board Legal Counsel**

Name	Firm	Present	Not Present
George T. Reeves	Davis, Schnitker, Reeves & Browning, P.A.	X	

**Leadership Team**

Position	Name	Present	Not Present
Executive Director	Hugh Thomas	X	
Deputy Executive Director	Tom Mirti	X	
Deputy Executive Director	Steve Minnis	X	
Executive Office & Board Coordinator	Robin Lamm	X	

**Guests:**

Adam Collins, ACE, Inc.	Ray Hodge, Southeast Milk
Charles Shinn, Florida Farm Bureau	De Broughton, UF/IFAS
James Batts, Gray Construction	Jay Goweneski, Comfort Temp

The Florida Channel  
Rick Hutton  
Forrest Cothron  
Paul Still  
John Fitzgerald  
Peter Kleinhenz  
Lucinda Merritt  
Jim Tatum  
Walker Wrenn  
Jane Blais  
Stormie Knight  
Kristin Rubin  
Kelly Aue

Roberto Denis  
David King  
Steve Gladin  
Sarah Younger  
Madeline Hart  
Christian Merricks  
Bob Moresi  
Craig Varn  
Jan Henderson  
Merrilee M. Jipson  
Larry Sellars  
Jeffrey Hill

**Staff:**

Katelyn Potter  
Ashley Spivey  
Tilda Musgrove  
Libby Schmidt  
Amy Brown  
John Good  
Steve Schroeder  
Paul Buchanan  
Kris Eskelin  
Sky Notestein  
Tara Rodgers

Warren Zwanka  
Tyler Jordan  
Leroy Marshall  
Matt Cantrell  
Pat Webster  
Sean King  
Sky Notestein  
Bo Cameron  
Robbie McKinney  
Fred Reeves  
Stasi Wachter

Agenda Item No. 4 - Announcement of any Amendments to the Agenda by the Chair: Mr. Reeves requested Agenda Item No. 10 – Final Order Number 21-001, Still v. Suwannee River Water Management District and Bradford County; SRWMD No. ERP-007-233697-2; DOAH CASE NO. 20-009, be removed from agenda and tabled until the February 2021 Board Meeting.

Agenda Item No. 5 – Public Comment.

- Jeff Hill – Requested money for proposed damaged pipe.
- Ray Hodge, Southeast Milk – Requested support and potential partnership for assistance with sustainability for agriculture and dairy projects in Florida. Thanked the District for continued support.
- Jim Tatum, Our Santa Fe River – Objections regarding Seven Springs water use permit application, and groundwater withdrawals.
- Paul Still – Thanked the Board for tabling Agenda Item No. 10. Support for the sustainability of projects in the District. Comments regarding Edwards Bottomlands on the FDOT Mitigation Plan.
- Sarah Younger – Did not answer when called upon.

Agenda Item No. 6 - Consideration of the Following Items Collectively by Consent:

- Agenda Item No. 7 - December 8, 2020 Board, Workshops, and Lands Committee Meeting Minutes
- Agenda Item No. 12 - Detailed Assessment and Negotiations for the Acquisition of a Conservation Easement, Rio Lindo Parcel, Gilchrist County
- Agenda Item No. 14 - November 2020 Financial Report
- Agenda Item No. 15 - Memorandum of Understanding with the Florida Department of Environmental Protection

- Agenda Item No. 17 - Florida Department of Transportation Mitigation Plan 2021-2025
- Agenda Item No. 26 - Fiscal Year 2020 Land Management Annual Report
- Agenda Item No. 27 - Contract with H. B. Tuten Jr. Logging Inc., for the Sandlin Bay #6 Timber Sale
- Agenda Item No. 28 - Contract with H. B. Tuten Jr. Logging Inc., for the Sandlin Bay #7 Timber Sale
- Agenda Item No. 29 - Contract with H. B. Tuten Jr. Logging Inc., for the Sandlin Bay #8 Timber Sale
- Agenda Item No. 31 - Update to the Lake Alto Minimum Flows and Minimum Water Levels Report
- Agenda Item No. 32 - Update to the Lake Hampton Minimum Flows and Minimum Water Levels Report
- Agenda Item No. 33 - Update to the Santa Fe Lake Minimum Flows and Minimum Water Level Report

MOTION WAS MADE BY SCHWAB, SECONDED BY SANCHEZ TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 7 – December 8, 2020 Board, Workshops, and Lands Committee Meeting Minutes.  
Approved on Consent.

Agenda Item No. 8 - Items of General Interest for Information/Cooperating Agencies and Organizations.

- Tom Mirti gave a presentation of hydrologic conditions of the District.
- Cooperating Agencies and Organizations. None

### **GOVERNING BOARD LEGAL COUNSEL**

Agenda Item No. 9 – Update on Legal Activities / Enforcement Status Updates. Mr. Reeves updated the Board on the Seven Springs Administrative Court Case.

Agenda Item No. 10 – 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.  
**Tabled until the February 2021 Board Meeting.**

### **BUSINESS AND COMMUNITY SERVICES**

#### Administration

Agenda Item No. 11 – Land Acquisition and Disposition Activity Report. This report was provided as an informational item in the Board materials.

Agenda Item No. 12 – Detailed Assessment and Negotiations for the Acquisition of a Conservation Easement, Rio Lindo Parcel, Gilchrist County. Approved on Consent.

Agenda Item No. 13 – Contract with Gray Construction Services, Inc., for HVAC System Replacements. Steve Schroeder, Administration Chief, presented this item to the Board.

The following attendees provided comments to the Board:  
Jay Goweneski, Comfort Temp  
James Batts, Gray Construction Services, Inc.



The Chair requested a break for the Board members to go and look at the air conditioner locations and IT room systems for reference.

AMENDED MOTION WAS MADE BY SESSIONS, SECONDED BY SCHWAB TO REPLACE THE IT ROOM SYSTEM WITH A STANDARD UNIT WITH APPROPRIATE ADJUSTMENTS, IN LIEU OF THE IT SPECIFIC UNIT AND DECREASE THE CONTRACT AMOUNT IN ACCORDANCE WITH THE PROPOSAL, MOTION CARRIED UNANIMOUSLY.

Finance

Agenda Item No. 14 – November 2020 Financial Report. Approved on Consent.

Agenda Item No. 15 – Memorandum of Understanding with the Florida Department of Environmental Protection. Approved on Consent.

Resource Management

Agenda Item No. 16 – Permitting Summary Report. This report was provided as an informational item in the Board materials.

Agenda Item No. 17 – Florida Department of Transportation Mitigation Plan 2021-2025. Approved on Consent.

Agenda Item No. 18 – Governing Board Directive 21-0001, Revised Regulatory Compliance and Enforcement Policy. Warren Zwanka, Division Director, presented this item to the Board.

MOTION WAS MADE BY SCHWAB, SECONDED BY KEITH TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 19 – Modification of Water Use Permit 2-041-216102-7, Alliance Branford Gilchrist Project, Gilchrist County. Chrissy Carr, Chief Environmental Scientist, presented this item to the Board.

Steve Gladin provided comments to the Board.

MOTION WAS MADE BY SCHWAB, SECONDED BY THOMPSON TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 20 – Cothron Update. Leroy Marshall, Chief Professional Engineer, updated the Board and provided a timeline regarding additional information submitted by Adam Collins, ACE, Inc., since the December 2020 Board Meeting. Mr. Collins sent an updated Restoration Plan today, January 12, 2021, at 8:20 a.m., prior to Board Meeting.

Mr. Collins and Forrest Cothron provided comments to the Board.

Agriculture and Environmental Projects

Agenda Item No. 21 – Contract to Provide Administrative Assistance with Cost-Share Program. Matt Cantrell, Project Manager, presented this item to the Board.

MOTION WAS MADE BY SANCHEZ, SECONDED BY SMITH TO TABLE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 22 – Contract to Provide Cost-Share Funding to R&H Farms, Inc., Columbia County.  
Mr. Cantrell presented this item to the Board.

MOTION WAS MADE BY SCHWAB, SECONDED BY SANCHEZ TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 23 – Contract to Provide Cost-Share Funding to Sidney Koon, Lafayette County.  
Libby Schmidt, Project Manager, presented this item to the Board.

MOTION WAS MADE BY SANCHEZ, SECONDED BY SCHWAB TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 24 – University of Florida On-Farm Demonstration Project: Controlled Release Fertilizers. Ms. Schmidt presented this item to the Board.

The following attendees provided comments to the Board:

De Broughton, UF/IFAS

Charles Shinn, Florida Farm Bureau

Mrs. Sanchez publicly announced a conflict of interest and abstained from voting on this agenda item. The Conflict of Interest Form was completed and signed by Mrs. Sanchez. This form is hereby made part of these minutes and is filed in the permanent Governing Board Meeting minutes files of the District.

MOTION WAS MADE BY SCHWAB, SECONDED BY KEITH TO APPROVE THE RECOMMENDATION. MOTION CARRIED WITH SANCHEZ ABSTAINING.

Chair Johns recalled Sarah Younger for public comments. No response from Ms. Younger.

## **WATER AND LAND RESOURCES**

### *Land Management Program*

Agenda Item No. 25 - District Land Management and Twin River State Forest (TRSF) Activity Summary. This summary was provided as an informational item in the Board materials.

Agenda Item No. 26 - Fiscal Year 2020 Land Management Annual Report. Approved on Consent.

Agenda Item No. 27 – Contract with H. B. Tuten Jr. Logging Inc., for the Sandlin Bay #6 Timber Sale.  
Approved on Consent.

Agenda Item No. 28 – Contract with H. B. Tuten Jr. Logging Inc., for the Sandlin Bay #7 Timber Sale.  
Approved on Consent.

Agenda Item No. 29 – Contract with H. B. Tuten Jr. Logging Inc., for the Sandlin Bay #8 Timber Sale.  
Approved on Consent.

### *Water Resources Program*

Agenda Item No. 30 – Agricultural Monitoring Report. This report was provided as an informational item in the Board materials.

Water Supply / MFL Programs

Agenda Item No. 31 – Update to the Lake Alto Minimum Flows and Minimum Water Levels Report. Approved on Consent.

Agenda Item No. 32 – Update to the Lake Hampton Minimum Flows and Minimum Water Levels Report. Approved on Consent.

Agenda Item No. 33 – Update to the Santa Fe Lake Minimum Flows and Minimum Water Level Report. Approved on Consent.

Agenda Item No. 34 – Update to the Lake Butler Minimum Flows and Minimum Water Level Hydro Modeling Report. Sean King, MFL Office Chief, presented this item to the Board.

MOTION WAS MADE BY THOMPSON, SECONDED BY SESSIONS TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 35 – LSFJ Revised MFL Report. John Good, Senior Professional Engineer, provided an update to the Board.

The following attendees provided comments to the Board:

Rick Hutton, Gainesville Regional Utilities and North Florida Utility Coordination Group Representative  
Lucinda Merritt, Ichetucknee Alliance

Agenda Item No. 36 – Water Supply Update. Amy Brown, Water Supply Chief, provided an update to the Board.

**EXECUTIVE OFFICE**

Agenda Item No. 37 - District's Weekly Activity Reports. These reports were provided as an informational item in the Board materials.

Agenda Item No. 38 – **Public Hearing** and Acceptance of the 2020 Annual Work Plan.

Chair Johns opened the Public Hearing.

Katelyn Potter, Communications and Organizational Development Chief, presented the recommendation to the Board.

Chair Johns opened for Public Comments.

No Public Comments were received.

Chair Johns closed the Public Hearing.

MOTION WAS MADE BY SCHWAB, SECONDED BY KEITH TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 39 – **Public Hearing** and Acceptance of the 2021 Florida Forever Work Plan.

Chair Johns opened the Public Hearing.

Mrs. Potter presented the recommendation to the Board.

Chair Johns opened for Public Comments.

No Public Comments were received.

Chair Johns closed the Public Hearing.

MOTION WAS MADE BY KEITH, SECONDED BY THOMPSON TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 40 - Announcements. Mr. Thomas updated the Board on District activities.

Agenda Item No. 41 - Governing Board Announcements. None

Agenda Item No. 42 - Adjournment. Meeting adjourned at 2:32 p.m.

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Chair

ATTEST:

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SUWANNEE RIVER WATER MANAGEMENT DISTRICT  
GOVERNING BOARD WORKSHOP

Workshop began at 2:33 p.m.

Communications Year in Review and Fiscal Year 2021 Communications Plan

Lindsey Garland, Communications and Outreach Manager, provided a powerpoint presentation to the Board regarding Communications year in review progress and Fiscal Year 2021 Communications Plan to continue public outreach.

Workshop adjourned at 3:15 p.m.

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 . . .")

## **FINAL ORDER**

Pursuant to Section 120.57(1), Florida Statutes ("F.S."), the District is required to enter its final order adopting the recommended order or make changes thereto as provided by law. The District staff does not believe that making any changes to the recommended order is warranted and requests that the governing board adopt the recommended order as its own.

Further, as the Administrative Law Judge has expressly found that Mr. Still engaged in the above proceedings for an improper purpose, District staff recommends that the District's final order (1) provide that Mr. Still shall pay the District and the county's costs and attorney's fees incurred in these proceedings and (2) remand these proceedings back to the Administrative Law Judge to set the amount of the award.

A proposed final order which accomplishes the above is enclosed.

The proposed final order was enclosed in the packet for the Governing Board's January meeting. Mr. Still requested that this matter be continued until the February meeting so that he would have time to negotiate with the county about the award of attorneys' fees and costs. At the January meeting, the Governing Board agreed to continue this matter until its February meeting.

## **STIPULATED FINAL ORDER**

In Mr. Still's request, he represented that he did not intend to file or participate in any more petitions concerning the District or the county. Based on this representation District legal and county staff have been working on a proposal along these lines which is embodied in the stipulated Final Order a copy of which is also enclosed. The stipulated Final Order is the same as the Final Order except as follows:

1. Mr. Still, the District and the county all agree that the award for fees and costs shall be \$30,000.00 for the District and \$30,000.00 for the county. (This avoids the expense of a fee hearing before the Administrative Law Judge which would be required without a stipulation.)
2. The District and the county agree not to enforce the awards of fees and costs unless a triggering event occurs. The triggering events are summarized as follows:
  - A. Mr. Still or his spouse file a petition for administrative hearing, of any kind, with the District, the St. Johns River Water Management District (St. Johns) the Florida Department of Environmental Protection (FDEP) or DOAH;
  - B. Mr. Still or his spouse appear as a party in an administrative proceeding in which the District, St. Johns, FDEP and/or the county is party;
  - C. Mr. Still or his spouse appear as a qualified representative in an administrative proceeding in which the District, St. Johns, FDEP and/or the county is party
  - D. Mr. Still or his spouse file a complaint or petition, of any kind, with any court or tribunal against the District, St. Johns, FDEP and/or the county;
  - E. Mr. Still or his spouse participate as a party in any proceeding before any court or tribunal in which the District, St. Johns, FDEP and/or the county is a party; or,
  - F. The use of the standing or membership of Mr. Still or his spouse to establish the associational standing of an association or group in an administrative or judicial proceeding, of any kind, in which the District, St. Johns, FDEP and/or the county is party.

3. If any of the triggering events occur in the next 20 years then the District or the county or both, could seek to enforce their award of fees and costs. The District and the county are not required to act in concert. If none of the triggering events occur within the next 20 years, then the District and the county will never enforce the awards of fees and costs.

The county was going to consider the stipulated Final Order at its February 1, 2021 Board of County Commissioners meeting. We will inform the governing board of the county's decision at our meeting. Regardless of the county's decision, the governing board is free to reject any settlement and adopt the first Final Order with no stipulations.

/gtr

Attachments



STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

PAUL STILL,

Petitioner,

VS.

CASE NO. 20-0091

SUWANNEE RIVER WATER MANAGEMENT  
DISTRICT AND BRADFORD COUNTY,  
FLORIDA,

Respondents.

\_\_\_\_\_ /

RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on September 10 and 11, 2020, by Zoom conference before E. Gary Early, a designated Administrative Law Judge of the Division of Administrative Hearings (“DOAH”).

APPEARANCES

For Petitioner Paul Still:

Dr. Paul Edward Still, pro se  
14167 Southwest 101st Avenue  
Starke, Florida 32091

For Respondent Suwannee River Water Management District:

Frederick T. Reeves, Esquire  
Frederick T. Reeves, P.A.  
5709 Tidalwave Drive  
New Port Richey, Florida 34562

For Respondent Bradford County, Florida:

William Edward Sexton, County Attorney  
Bradford County, Florida  
945 North Temple Avenue  
Post Office Drawer B  
Starke, Florida 32091

STATEMENT OF THE ISSUE

The issue to be determined is whether Bradford County meets the criteria listed in Florida Administrative Code Rule 62-330.051(4)(e) for a road repair exemption.

PRELIMINARY STATEMENT

On December 10, 2019, the Suwannee River Water Management District (“District”) entered a notice in Environmental Resource Permit (ERP): Exemption, ERP-007-233697-2 (“Exemption”), by which it determined that activities related to the repair of Southwest 101st Avenue in Bradford County, Florida (“101st Avenue” or the “road”) met the criteria to be an exempt activity pursuant to rule 62-330.051(4)(e).

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

On January 13, 2020, the District filed a Motion to Amend Case Caption to Include Exemption Applicant, Bradford County, Florida, as a Party, and Bradford County, Florida (“County”) was, thereafter, added as a Respondent.

The final hearing was initially set to be heard on March 23, 2020, in Live Oak, Florida. Upon motion, the hearing was continued and rescheduled for

June 17 and 18, 2020, in Live Oak. A telephonic status conference was held on May 19, 2020, to discuss both the hearing date and the means by which the hearing would be conducted. On May 21, 2020, the parties jointly requested that the hearing be rescheduled for September 10 and 11, 2020, at the District offices in Live Oak, and it was so scheduled. On July 21, 2020, in light of the continuing Covid-19 outbreak, and due to a scheduled travel-limiting medical procedure involving the undersigned, the hearing was rescheduled to be held on September 10 and 11, 2020, by Zoom conference.

On September 4, 2020, the parties filed their Joint Pre-hearing Stipulation (“JPS”). The JPS contained nine stipulations of fact, each of which are adopted and incorporated herein. The JPS also identified disputed issues of fact and law remaining for disposition.

On September 4, 2020, the County also filed a Motion in Limine objecting to consideration of whether the work performed by the County qualified for an exemption under rule 62-330.051(4)(b) for the maintenance and operation of culverted roadway crossings. Dr. Still filed a response which included a copy of the County’s July 2, 2019, Request for Verification of an Exemption, and based thereon, the motion was denied, subject to a determination that the area at issue is a “wholly artificial, non-navigable drainage conveyance.”

The final hearing was convened on September 10, 2020, as scheduled.

At the commencement of the final hearing, the issue of whether an exemption for “[c]onstruction, alteration, or maintenance, and operation, of culverted ... roadway crossing[ ]” pursuant to rule 62-330.051(4)(b) was sought by the County or granted by the District was taken up again. It was determined from the stipulated Exemption application that, on December 3, 2019, the Exemption request was modified to eliminate the request for

verification of the culverted roadway crossing, and the County was proceeding solely on its application for the road repair exemption in rule 62-330.051(4)(e). That substituted application was the basis for the District's notice of the Exemption. The Order denying the Motion in Limine was reconsidered in light of the additional evidence and granted on the record. Therefore, the hearing proceeded solely on the issue of whether the County met the standards for a road repair exemption under rule 62-330.051(4)(e).

The Exemption was approved under the authority of chapter 403, Florida Statutes. Therefore, the modified burden of proof established in section 120.569(2)(p), Florida Statutes, is applicable. Thus, upon the County and the District entering the complete application files and supporting documentation and the District's notice of the Exemption into evidence, the prima facie case of entitlement for the Exemption was met. Therefore, the burden of ultimate persuasion is on Petitioner to prove his case in opposition to the Exemption by a preponderance of the competent and substantial evidence and, thereby, prove that the County failed to provide reasonable assurance that the standards for issuance of the Exemption were met.

At the final hearing, by agreement of the parties, the witnesses were presented as joint witnesses, with all parties having the opportunity to elicit direct testimony and cross-examination of each witness. The following witnesses were presented: Patrick Welch, R.P.S., who was accepted as an expert in land surveying; Chad Rischar, P.W.S., who was accepted as an expert in wetland science; Jorge Morales, P.E., who was accepted as an expert in civil engineering; Mary Diaz, P.E., who was accepted as an expert in agricultural and biological engineering, environmental resource permitting ("ERP"), and rule-based exemptions to ERP; Leroy Marshall, II, P.E., who was accepted as an expert in civil engineering, ERP, and rule-based exemptions to ERP; and Christina Carr, P.W.S., who was accepted as an

expert in environmental science, ERP, rule-based exemptions to ERP, and soil and water science. Dr. Still testified on his own behalf. District Exhibits 1 through 3, County Exhibits 3 through 6, and Petitioner's Exhibits 1 through 3, 5 through 8, and 10 through 12 were received in evidence.

A two-volume Transcript of the final hearing was filed on October 7, 2020. The parties requested 20 days from the filing of the Transcript to file their post-hearing submittals. On October 22, 2020, the County moved for an extension of time to file proposed recommended orders ("PRO"). The motion was granted, and the date for filing was extended to November 3, 2020. On October 28, 2020, the District moved for an extension of time to file PROs. The motion was granted, and the date for filing was extended to November 9, 2020. Dr. Still and the District filed their PROs by 5:00 p.m. on November 9, 2020. The County's PRO was received by DOAH through the e-filing system at 5:09 p.m. on November 9, 2020, and it was, therefore, entered on the docket as being filed on November 10, 2020, in accordance with Florida Administrative Code Rule 28-106.104(3). Nonetheless, each of the PROs has been considered in the preparation of this Recommended Order.

On September 3, 2020, the County filed a Motion for Attorney's Fees and Costs Pursuant to Section 120.595, Florida Statutes, Against Petitioner, Paul Still. Mr. Still filed a response on October 6, 2020. The motion is addressed at the conclusion of this Recommended Order.

The law in effect at the time the District takes final agency action on the application being operative, references to statutes are to their current versions, unless otherwise noted. *Lavernia v. Dep't of Prof'l Reg.*, 616 So. 2d 53 (Fla. 1st DCA 1993).

## FINDINGS OF FACT

Based upon the demeanor and credibility of the witnesses, the stipulations of the parties, and the evidentiary record of this proceeding, the following Findings of Fact are made:

### The Parties

1. Dr. Still resides at 14167 Southwest 101st Avenue, Starke, Florida. That property abuts work that was performed pursuant to the Exemption.
2. The District is a water management district created by section 373.069(1), Florida Statutes. It has the responsibility to conserve, protect, manage, and control the water resources within its geographic boundaries. *See* § 373.069(2)(a), Fla. Stat. The District, in concert with the Department of Environmental Protection, is authorized to administer and enforce chapter 373, and rules promulgated thereunder in chapter 62-330, regarding activities in surface waters of the state. The District is the permitting authority in this proceeding and issued the Exemption to the County.
3. The County is a political subdivision of the State of Florida. The County is responsible for keeping county roads and structures within its boundary in good repair and for establishing the width and grade of such roads and structures. §§ 334.03(8) and 336.02(1)(a), Fla. Stat.
4. 101st Avenue, a dirt road, was constructed decades ago and runs in a general north/south direction for several miles. It was in existence, publicly used, and under County maintenance long before January 1, 2002. Dr. Still acknowledged that when he purchased his property in 1996, the road was publicly used and was being maintained by the County.
5. The centerline of 101st Avenue has existed in its current position as long as Mr. Welch, the Bradford County surveyor, has been familiar with the property, since at least 1996. The County owns and is allowed to use a 60-foot right-of-way (“ROW”) extending 30 feet to either side of the centerline. The

driving surface of 101st Avenue has consistently been from 20 to 22 feet in width, with drainage structures extending further into the ROW.

6. The evidence was convincing that 101st Avenue was regularly maintained or repaired by the County for more than seven years prior to the Exemption. The evidence was equally convincing that, during that period, the width of the road that actually has been maintained or repaired is substantially -- if not identically -- the same as the width of 101st Avenue after the road repairs under the Exemption were completed.

7. 101st Avenue was, prior to the exempt road repair work, “very wet” during rainy periods, and cars and trucks would routinely get stuck in the mud. Mr. Welch testified credibly that 101st Avenue was “a mess” even before the events that led to the work covered by the Exemption.

8. It is reasonable to conclude that the driving surface of 101st Avenue may have shifted by a matter of feet in either direction over the years prior to the exempt road repairs, which would have generally been the result of persons driving off of the driving surface to escape impassable areas, and of the imprecision inherent in grading a dirt road with a large motor grader. The evidence established that the County has maintained 101st Avenue at a location as close to the established centerline as possible, and has not intentionally moved or realigned 101st Avenue from its historic location.

9. Mr. Welch was very familiar with 101st Avenue, having used it numerous times, including during the period leading up to the events that precipitated the road repair work at issue. He testified to two surveys he performed of the area, first in 1996, and again in the vicinity of the Still property in May 2017. He testified that 101st Avenue was under County ownership and maintenance prior to his first survey in 1996.

10. Photographic evidence offered by Dr. Still showed 101st Avenue to be significantly degraded near his property for several years leading up to 2017. Turbidity of the waters passing alongside and under 101st Avenue was “a long ongoing issue with this road,” dating back to at least 2015.

11. 101st Avenue “was in pretty poor shape” in January 2017. Cars would routinely go around wet areas on the driving surface and possibly onto Dr. Still’s property. That gave the appearance of a change in the eastern ROW. Over a period of years prior to the Exemption work, the ROW may have crept eastward as the road was graded, ditches were maintained, and residential traffic diverted around impassable areas. The shift could have been as much as 10 to 15 feet, but the evidence establishing such was neither precise nor compelling. However, even if the ROW shifted over time, the movement was not the result of intentional operation and maintenance by County staff, but was a gradual, unintentional movement over time. Such a gradual shift is common with dirt and limerock roads. Furthermore, the alignment of the travel surface was stable, and was always within the 60-foot ROW, although the stormwater structures may have gone beyond the ROW.

12. In August 2017, a series of storm events caused 101st Avenue to be flooded. Dr. Still testified that the existing road and ditches and most of the areas adjacent to his property were “destroyed” by continued public use after the August 2017 rain event. He believed there was no way to ascertain the alignment of 101st Avenue.

13. Around September 10, 2017, Hurricane Irma impacted the County, causing substantial flooding and damaging numerous dirt and limerock roads in the County, including 101st Avenue. 101st Avenue was partially damaged from flooded conditions, and rendered completely impassable at places along its path, which led motorists to drive off of the established roadway onto adjacent properties to get through. The diversion of traffic off of the road surface was due to the personal decisions of the public using the road, and was not the result of any direction, operation, or maintenance by County staff.



14 After Hurricane Irma, Governor Scott issued emergency orders that allowed local governments to undertake necessary repairs to roadways. The County issued similar emergency orders.<sup>1</sup>

15. In November 2017, Mr. Welch performed a survey to establish the alignment of the road. 101st Avenue was partially repaired consistent with the survey and pursuant to the emergency orders, with the work beginning in December 2017.

16. As the work to repair 101st Avenue was proceeding, Dr. Still asserted that the ROW encroached onto his property. He and Mr. Welch walked the property line, noted that the ROW appeared to extend across a fence installed on the west side of 101st Avenue, and staked the disputed area. Though the County believed it was working within its ROW, it decided, more as a matter of convenience to avoid the time and expense of litigation, to purchase the disputed area. Thereafter, on January 5, 2018, the County purchased 1.78 acres of property from Dr. Still, which was incorporated into the County ROW.<sup>2</sup> The purchase of the property, and establishment of the undisputed ROW, was completed well before the December 23, 2019, filing of the Petition.

17. The travel surface of the road remained within the prescriptive and historical ROW. The “footprint” of 101st Avenue was the same before and after the road repair work. Dr. Still admitted that the road had not “physically moved.” However, he believes that the County’s use of the

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<sup>1</sup> Since the Exemption work was largely (and lawfully) performed under the emergency orders, the County’s Exemption application was filed after the repair work had begun on 101st Avenue, and is considered an after-the-fact application. The application for the Exemption was originally filed pursuant to rules 62-330.051(4)(b) and (e). The County thereafter withdrew its request for an exemption pursuant to rule 62-330.051(4)(b), and limited its Exemption to rule 62-330.051(4)(e), which establishes the standards at issue in this proceeding. The District’s December 10, 2019, proposed agency action granted the Exemption for resurfacing the entirety of the length of 101st Avenue.

<sup>2</sup> The evidence was not sufficient to establish that the ROW actually encroached onto Dr. Still’s property. It is equally plausible that the fence encroached into the 101st Avenue ROW. Nonetheless, the issue was -- or should have been -- resolved when the County agreed to pay Dr. Still to extinguish any plausible claim to the property in dispute.

1.78 acres of purchased property for the ROW constitutes a realignment of 101st Avenue.

18. From an engineering perspective, as long as a road surface is within an established ROW, and there has been no intentional change in its direction or trajectory, the road is not “realigned.” The evidence established that 101st Avenue remained within its established ROW, and there was no intentional change in its direction or trajectory from the repair work.

19. The work performed under the exemption involved grading 101st Avenue along its entire length, and applying asphalt millings and a sealant to stabilize the travel surface. The asphalt millings placed on the 101st Avenue travel surface were applied on top of the “as-is” existing limerock. The millings provided structure and stability to the travel lanes, and eliminated erosion and the large muddy bogs that were a feature of the road during the rainy season and after storms. There was no persuasive evidence that the millings materially raised the height of the road travel surface.

20. Mr. Rischar testified that 101st Avenue, after the road repair work, is now in good condition and intact. The asphalt millings are not “loose” but are bound together. The work stabilized the roadbed, provided structural integrity, and improved water quality as compared to a simple graded road. His testimony is accepted.

21. Dr. Still produced several photographs depicting a small pile of dirt near a roadside ditch near the drainage culvert under 101st Avenue. The pile pre-dated the Exemption work. Ms. Diaz testified that the mounds had been “taken care of,” and they do not appear in any post-Exemption photographs. There was no evidence of any excavated material having been deposited at or near the Still property from the exempt road repair work.

22. As part of the Exemption work, drainage structures were incorporated to receive and convey stormwater from the road surface. Rule 62-330.051(4)(e)5. requires that work performed under a road repair exemption

incorporate “[r]oadside swales or other effective means of stormwater treatment.”

23. The evidence was not sufficient to demonstrate that the stormwater structures incorporated along 101st Avenue met the stringent criteria for “swales” as set forth in the Applicant’s Handbook, Volume II, §§ 5.5.1 and 5.5.2. However, the testimony was convincing that the drainage work incorporated into the road repairs was an “other effective means of stormwater treatment.” Dr. Still’s testimony as a “citizen scientist” was not sufficient to overcome the expert testimony offered by the County and the District.

24. During the initial phases of the work, when the County was acting under the post-Irma emergency orders, the County had not installed silt fences. Dr. Still complained to the County, and silt fences and turbidity curtains were installed. Dr. Still admitted that they “functioned fairly well.” The silt fences and turbidity curtains were installed prior to the December 23, 2019, filing of the Petition.

25. The turbidity curtains and silt screens met best management practices (“BMPs”). BMPs are generally construction-related practices, and are not designed for the “operation” of a facility after conditions have stabilized. Compliance with BMPs is intended to demonstrate compliance with water quality standards. Ms. Carr directed the County to remove the turbidity control curtains prior to her last inspection since the area had stabilized.

26. While photographic evidence depicted differences in the appearance of water in the roadside ditches from that flowing under the road from forested areas to the west, the photographs were not sufficient to establish violations of state water quality standards for turbidity. A turbidity violation is, by definition, a reading of 29 Nephelometric Turbidity Units (NTUs) over background as measured by a meter. Fla. Admin. Code R. 62-302.530(69). Ms. Carr testified credibly that one cannot gauge water quality from a picture, and that the photographs she took on her December 20, 2018, site

visit did not depict the conditions “in real life.” District employees who visited the area, including Ms. Carr, saw nothing that raised water quality concerns. The appearance of the water in photographs is not sufficient to demonstrate that the County failed to control turbidity, sedimentation, and erosion during and after construction to prevent violations of state water quality standards due to construction-related activities.

27. Dr. Still was critical of the District inspectors for failing to take turbidity samples using calibrated meters. However, he did not take such samples himself, and was not able to offer proof of any violation of water quality standards due to the exempt road repairs.

28. Rule 62-330.050(9)(b)5., read in conjunction with rule 62-330.051(4)(e)8., provides that the “construction, alteration, and operation” of exempt road repair work shall not “[c]ause or contribute to a violation of state water quality standards,” and that “[t]urbidity, sedimentation, and erosion shall be controlled during and after construction to prevent violations of state water quality standards.” The rules establish that the standards and conditions apply to the exempt work being performed, and not to conditions in the area that may have existed prior to the exempt work.

29. The issue of turbidity, though discussed at length during the hearing, was resolved conclusively when Dr. Still admitted that turbidity was not made worse by the road repairs. Furthermore, a preponderance of the evidence established that the structure and stability provided to the travel lanes improved the turbidity and sedimentation that pre-dated the road repair, and reduced erosion of the road, not only by the repair of the road itself, but by eliminating the need to drive off of the road surface to avoid and bypass impassable areas.

30. The Exemption work included the replacement of a culvert under 101st Avenue. At some time between January 8, 2018, and January 19, 2018, an existing 30-inch culvert was removed and replaced with two 24-inch culverts. Dr. Still complained that the 24-inch culverts were resulting in

flooding of his property. Therefore, on or about December 17, 2019, prior to the December 23, 2019, filing of the Petition, the 24-inch culverts were removed, and a 30-inch culvert was installed to match the size and capacity of the previously existing culvert, and return the area to its pre-existing condition.

31. There was no evidence that the current 30-inch culvert has resulted in any flooding. Since the 30-inch culvert reestablished the pre-Exemption condition, a strong inference is drawn that the exempt work will not “cause adverse water quantity or flooding impacts to receiving water and adjacent lands.” Rather, the evidence establishes that water quantity impacts, if any, were in existence prior to the exempt road repairs.<sup>3</sup>

32. The work was not related to the alteration or maintenance of a “culverted roadway crossing,” despite the culvert work. Thus, the previous inclusion of rule 62-330.051(4)(b) as a basis for the County’s Exemption request was withdrawn. The District accepted that withdrawal, and its notice of Exemption did not include any reference to the culvert. As indicated in the Preliminary Statement and the amended disposition of the Motion in Limine, the road repair Exemption does not explicitly address culvert replacement. Therefore, any allegation that the replacement of the culvert was a violation of District permitting standards must be taken up with the District as an exercise of its enforcement discretion, and is not an issue in this proceeding.

33. Dr. Still produced photographs that were described as depicting “sediment” that was deposited along a “canal” on his property between 101st Avenue and a cleared utility easement. To the extent the photographs depicted sediment as described, which was not visually apparent, they were not sufficient to prove when any such sediment was deposited, or whether the sediment was related to the road repairs performed under the Exemption.

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<sup>3</sup> Again, simplistically, work performed under the road repair exemption is not designed to make pre-existing water quality and water quantity issues better, it just cannot make those conditions worse.

34. Mr. Rischar testified convincingly that there was no scientific data to support a determination that there are water quality issues, including turbidity, at the roadway.

35. Dr. Still produced photographs of the post-Exemption condition of 101st Avenue with several comparatively tiny depressions that, if never maintained, would presumably develop into potholes. Despite the nascent depressions, the road appeared to be vastly improved from its condition prior to the repairs, as evidenced by Dr. Still's pre-Irma photographs. Mr. Rischar testified credibly that any roadway, from the least developed dirt road to the most highly developed interstate highway can, and does, develop holes in the travel surface over time. For that reason, governmental bodies, including the County, maintain roads, including 101st Avenue. The photographs provide no support for a finding that the exempt road repairs have resulted in any violation of a standard in either rule 62-330.051(4)(e)8. or rule 62-330.050(9)(b)5.

36. The evidence established that 101st Avenue was regularly maintained and repaired by the County for more than seven years prior to the Exemption, and that the road repairs did not realign, expand the number of traffic lanes, or alter the width of the existing road.

37. The evidence established that the work performed under the Exemption did not realign 101st Avenue. The repairs to 101st Avenue included work reasonably necessary to repair and stabilize the road using generally accepted roadway design standards.

38. The evidence demonstrates that no excavated material related to the work under the Exemption was placed at or near Dr. Still's property or, for that matter, anywhere along 101st Avenue.

39. The evidence established that the repairs to 101st Avenue did not adversely impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise

cause adverse water quantity or flooding impacts to receiving waters and adjacent lands.

40. The evidence was not sufficient to establish that the road repair work caused or contributed to a violation of state water quality standards.

Ultimate Findings of Fact

41. The greater weight of the competent substantial evidence establishes that 101st Avenue was in existence long before January 1, 2002, has been publicly used since that time, and has been regularly maintained and repaired by the County for more than seven years prior to the Exemption. Evidence to the contrary was not persuasive.

42. The greater weight of the competent substantial evidence establishes that during its relevant period of existence, the width of 101st Avenue that actually has been maintained or repaired is substantially -- if not identically -- the same as the width of 101st Avenue after the road repairs under the Exemption were completed. The work performed under the Exemption did not realign or expand the number of traffic lanes of 101st Avenue. The repairs to 101st Avenue included work reasonably necessary to repair and stabilize the road using generally accepted roadway design standards. Evidence to the contrary was not persuasive.

43. The greater weight of the competent substantial evidence establishes that no excavated material related to the work under the Exemption was placed at or near Dr. Still's property or, for that matter, anywhere along 101st Avenue. Evidence to the contrary was not persuasive.

44. The greater weight of the competent substantial evidence establishes that the repairs to 101st Avenue did not adversely impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving waters and adjacent lands. Evidence to the contrary was not persuasive.

45. The greater weight of the competent substantial evidence establishes that the road repair work incorporated effective means of stormwater treatment, and did not cause or contribute to a violation of state water quality standards. Evidence to the contrary was not persuasive.

46. The greater weight of the competent substantial evidence establishes that turbidity, sedimentation, and erosion were controlled during and after construction, and continue to be controlled, to prevent violations of state water quality standards. Erosion and sediment control BMPs were installed and maintained in accordance with applicable guidelines and specifications. Evidence to the contrary was not persuasive.

### CONCLUSIONS OF LAW

#### Jurisdiction

47. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. §§ 120.569 and 120.57, Fla. Stat.

#### Standing

48. Section 120.52(13) defines a “party,” in pertinent part, as a person “whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.” Section 120.569(1) provides, in pertinent part, that “[t]he provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency.”

49. Standing under chapter 120 is guided by the two-pronged test established in the seminal case of *Agrico Chemical Corporation v. Department of Environmental Regulation*, 406 So. 2d 478 (Fla. 2d DCA 1981). In that case, the court held that:

We believe that before one can be considered to have a substantial interest in the outcome of the proceeding, he must show 1) that he will suffer an injury in fact which is of sufficient immediacy to



entitle him to a section 120.57 hearing and 2) that his substantial injury is of a type or nature which the proceeding is designed to protect. The first aspect of the test deals with the degree of injury. The second deals with the nature of the injury.

*Id.* at 482; see also *St. Johns Riverkeeper, Inc. v. St. Johns River Water Mgmt. Dist.*, 54 So. 3d 1051 (Fla. 5th DCA 2011); *Palm Beach Cty. Env'tl. Coal. v. Fla. Dep't of Env'tl. Prot.*, 14 So. 3d 1076 (Fla. 4th DCA 2009); *Mid-Chattahoochee River Users v. Fla. Dep't of Env'tl. Prot.*, 948 So. 2d 794, 797 (Fla. 1st DCA 2006).

50. Dr. Still alleged standing based on the impact that the road repair had on his property. The allegations of turbid runoff and sediment entering onto his property, as well as flooding of his property, meet the second prong of the *Agrico* test. This proceeding is designed to protect adjacent property owners from potential pollution, water quality and quantity violations, and other adverse impacts caused by the road repairs, impacts that are the subject of chapter 403 and rule 62-330.051 adopted thereunder.

51. The question for determination as to the first prong of the *Agrico* test is whether Dr. Still alleged injuries in fact of sufficient immediacy as to entitle him to a section 120.57 hearing. “[T]he injury-in-fact standard is met by a showing that the petitioner has sustained actual or immediate threatened injury at the time the petition was filed, and ‘[t]he injury or threat of injury must be both real and immediate, not conjectural or hypothetical.’” *S. Broward Hosp. Dist. v. Ag. for Health Care Admin.*, 141 So. 3d 678, 683 (Fla. 1st DCA 2014)(citing *Vill. Park Mobile Home Ass’n v. Dep’t of Bus. Reg.*, 506 So. 2d 426, 433 (Fla. 1st DCA 1987)).

52. Dr. Still alleged, inter alia, that the activities caused turbid runoff and sediment to enter onto his property, as well as flooding of his property, which is sufficient to meet the standard of an “injury in fact which is of sufficient immediacy to entitle [him] to a section 120.57 hearing.”

53. Bradford County has standing as the applicant for the Exemption. *Ft. Myers Real Estate Holdings, LLC v. Dep't of Bus. & Prof'l Reg.*, 53 So. 3d 1158, 1162 (Fla. 1st DCA 2011); *Maverick Media Group v. Dep't of Transp.*, 791 So. 2d 491, 492 (Fla. 1st DCA 2001).

#### Nature of the Proceeding

54. This is a de novo proceeding, intended to formulate final agency action and not to review action taken earlier and preliminarily. § 120.57(1)(k), Fla. Stat; *Young v. Dep't of Cmty. Aff.*, 625 So. 2d 831, 833 (Fla. 1993); *Hamilton Cty. Bd. of Cty. Comm'rs v. Dep't of Env'tl. Reg.*, 587 So. 2d 1378, 1387 (Fla. 1st DCA 1991); *McDonald v. Dep't of Banking & Fin.*, 346 So. 2d 569, 584 (Fla. 1st DCA 1977).

#### Burden and Standard of Proof

55. Section 120.569(2)(p) provides that:

For any proceeding arising under chapter 373, chapter 378, or chapter 403, if a nonapplicant petitions as a third party to challenge an agency's issuance of a license, permit, or conceptual approval, the order of presentation in the proceeding is for the permit applicant to present a prima facie case demonstrating entitlement to the license, permit, or conceptual approval, followed by the agency. This demonstration may be made by entering into evidence the application and relevant material submitted to the agency in support of the application, and the agency's staff report or notice of intent to approve the permit, license, or conceptual approval. Subsequent to the presentation of the applicant's prima facie case and any direct evidence submitted by the agency, the petitioner initiating the action challenging the issuance of the permit, license, or conceptual approval has the burden of ultimate persuasion and has the burden of going forward to prove the case in opposition to the license, permit, or

conceptual approval through the presentation of competent and substantial evidence.

56. The Exemption required notice to the District pursuant to rule 62-330.051(4)(e)7. and section 4.2.1 of the Applicant's Handbook, Volume I. Review by the District and a notice of agency action were required pursuant to sections 5.2 and 5.4 of the Applicant's Handbook, Volume I. The Exemption meets the definition of a license in section 120.52(10) because it is an authorization required by law. The Exemption verification was issued pursuant to rules promulgated under chapter 403. Therefore, the Exemption is subject to the abbreviated presentation and burden-shifting described in section 120.569(2)(p). *Spinrad v. Guerrero and Dep't of Envtl. Prot.*, Case No. 13-2254, RO ¶ 116 (Fla. DOAH July 25, 2014; Fla. DEP Sept. 8, 2014); *Pirtle v. Voss and Dep't of Envtl. Prot.*, Case No. 13-0515, RO ¶ 30 (Fla. DOAH Sept. 27, 2013, Fla. DEP Dec. 26, 2013).

57. The County and the District made the prima facie case of entitlement to the Exemption by entering into evidence the application file and supporting documentation and the District's notice of Exemption. In addition, they presented the testimony of expert witnesses in support of the road repair Exemption.

58. With the County having made its prima facie case for the Exemption, the burden of ultimate persuasion was on Dr. Still to prove his case in opposition to the Exemption by a preponderance of the competent and substantial evidence, and thereby prove that the County failed to provide reasonable assurance that the standards for issuance of the Exemption were met.

59. The standard of proof is by a preponderance of the evidence. § 120.57(1)(j), Fla. Stat.

60. "Surmise, conjecture or speculation have been held not to be substantial evidence." *Dep't of High. Saf. & Motor Veh. v. Trimble*, 821 So. 2d

1084, 1087 (Fla. 1st DCA 2002) (citing *Fla. Rate Conf. v. Fla. R.R. & Pub. Utils. Comm'n*, 108 So. 2d 601, 607 (Fla. 1959)).

### Reasonable Assurance

61. Approval of the Exemption is dependent upon there being reasonable assurance that the activities authorized will meet applicable standards.

62. Reasonable assurance means “a substantial likelihood that the project will be successfully implemented.” *Metro. Dade Cty. v. Coscan Fla., Inc.*, 609 So. 2d 644, 648 (Fla. 3d DCA 1992). Reasonable assurance does not require absolute guarantees that the applicable conditions for issuance of a permit have been satisfied. Furthermore, speculation or subjective beliefs are not sufficient to carry the burden of presenting contrary evidence or proving a lack of reasonable assurance necessary to demonstrate that a permit should not be issued. *FINR II, Inc. v. CF Indus., Inc.*, Case No. 11-6495 (Fla. DOAH Apr. 30, 2012; Fla. DEP June 8, 2012).

### Standards

63. Rule 62-330.051 provides that:

(4) Bridges, Driveways, and Roadways –

(e) Repair, stabilization, paving, or repaving of existing roads, and the repair or replacement of vehicular bridges that are part of the road, where:

1. They were in existence on or before January 1, 2002, and have:

a. Been publicly-used and under county or municipal ownership and maintenance thereafter, including when they have been presumed to be dedicated in accordance with section 95.361, F.S.;

b. Subsequently become county or municipally-owned and maintained; or

c. Subsequently become perpetually maintained by the county or municipality through such means as being accepted by the county or municipality as part of a Municipal Service Taxing Unit or Municipal Service Benefit Unit; and

2. The work does not realign the road or expand the number of traffic lanes of the existing road, but may include safety shoulders, clearing vegetation, and other work reasonably necessary to repair, stabilize, pave, or repave the road, provided that the work is constructed using generally accepted roadway design standards;

\* \* \*

8. All work is conducted in compliance with subsection 62-330.050(9), F.A.C.<sup>[4]</sup>

64. Rule 62-330.050(9)(b) provides, in pertinent part, that:

(9) The following apply when specified in an exemption in rule 62-330.051, F.A.C.:

(b) Construction, alteration, and operation shall not:

1. Adversely impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving water and adjacent lands;

\* \* \*

5. Cause or contribute to a violation of state water quality standards. Turbidity, sedimentation, and erosion shall be controlled during and after construction to prevent violations of state water quality standards, ... due to construction-related activities. Erosion and sediment control best

---

<sup>4</sup> As stipulated by the parties, rule 62-330.051(4)(e) 3., 4., and 6. are not at issue. In addition, although a notice of intent to use the Exemption was not provided to the District 30 days before performing the work, that requirement was resolved through a variance that was granted, published, and became final. Thus, rule 62-330.051(4)(e)7. is not at issue.

management practices shall be installed and maintained in accordance with the guidelines and specifications described in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Transportation and Florida Department of Environmental Protection, June 2007), ..., and the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), ...; nor

6. Allow excavated or dredged material to be placed in a location other than a self-contained upland disposal site, except as expressly allowed in an exemption in rule 62-330.051, F.A.C.<sup>[5]</sup>

65. Section 95.361(2), Florida Statutes, provides, in pertinent part, that:

In those instances where a road has been constructed by a nongovernmental entity, or where the road was not constructed by the entity currently maintaining or repairing it, or where it cannot be determined who constructed the road, and when such road has been regularly maintained or repaired for the immediate past 7 years by a county, ... such road shall be deemed to be dedicated to the public to the extent of the width that actually has been maintained or repaired for the prescribed period, whether or not the road has been formally established as a public highway. ... The dedication shall vest all rights, title, easement, and appurtenances in and to the road in:

(a) The county, if it is a county road; ... whether or not there is a record of conveyance, dedication, or appropriation to the public use.

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<sup>5</sup> Rule 62-330.050(9)(a) and (c) are not applicable. Rule 62-330.050(9)(b)2. through 4. are not applicable, which was not disputed.

### Entitlement to the Exemption

66. The use of the disjunctive “or” after rule 62-330.051(4)(e)1.b. means that, in order to meet the Exemption criteria, the road must have been in existence before January 1, 2002, and then meet *one* of the criteria in rule 62-330.051(4)(e)1.a, 1.b., or 1.c. The road does not have to meet *all* of the three “ownership” criteria in rule 62-330.051(4)(e)1.a, 1.b., and 1.c. *See Fla. Pulp and Paper Ass’n Envtl. Affairs, Inc. v. Dep’t of Envtl. Prot.*, 223 So. 3d 417, 420 (Fla. 1st DCA 2017)(“... the points of entry listed in section 120.56(2)(a) are separated by the disjunctive conjunction ‘or,’ which indicates that they are mutually exclusive alternatives.”); *see also Ellenwood v. Bd. of Arch. and Int. Design*, 835 So. 2d 1269, 1270 (Fla. 2003); *Osceola Cty. Sch. Bd. v. Arace*, 884 So. 2d 1003, 1005 (Fla. 1st DCA 2004); *Dep’t of Bus. Reg. v. Salvation Ltd., Inc.*, 452 So. 2d 65, 67 (Fla. 1st DCA 1984).

67. The evidence establishes that 101st Avenue was in existence before January 1, 2002, and has been publicly used since that time. The evidence establishes that 101st Avenue has been regularly maintained and repaired by the County for more than seven years prior to the Exemption. Thus, the road repairs meet the standards established in section 95.361 and rule 62-330.051(4)(e)1.a.

68. The evidence establishes that the work performed under the Exemption did not realign 101st Avenue or expand the number of traffic lanes of 101st Avenue. Furthermore, the repairs to 101st Avenue included work reasonably necessary to repair and stabilize the road using generally accepted roadway design standards. Thus, the road repairs meet the standards established in rule 62-330.051(4)(e)2.

69. The evidence establishes that the work performed under the Exemption incorporated effective means of stormwater treatment. Thus, the road repairs meet the standards established in rule 62-330.051(4)(e)5.

70. The evidence establishes that the repairs to 101st Avenue did not adversely impound or obstruct existing water flow, cause adverse impacts to

existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving waters and adjacent lands. Thus, the road repairs meet the standards established in rule 62-330.051(4)(e)8. and rule 62-330.050(9)(b)1.

71. The greater weight of the competent substantial evidence establishes that the road repair work did not cause or contribute to a violation of state water quality standards, and that turbidity, sedimentation, and erosion were controlled during and after construction, and continue to be controlled, to prevent violations of state water quality standards. Erosion and sediment control BMPs were installed and maintained in accordance with applicable guidelines and specifications. Any issues with turbidity are not the result of the repairs to 101st Avenue, but are issues endemic to dirt and limerock roads that long pre-dated the repairs. The evidence establishes that the repairs reduced turbidity, sedimentation, and erosion from previous levels. Thus, the road repairs meet the standards established in rule 62-330.051(4)(e)8. and rule 62-330.050(9)(b)5.

72. The evidence establishes that no excavated material related to the work under the Exemption was placed at or near Dr. Still's property or, for that matter, anywhere along 101st Avenue. Thus, the road repairs meet the standards established in rule 62-330.051(4)(e)8. and rule 62-330.050(9)(b)6.

73. As established in the Findings of Fact, reasonable assurance was provided that the County complied with all applicable standards for the Exemption established by rule 62-330.051(4)(e) and rule 62-330.050(9)(b), and that the County is entitled to use the Exemption.

#### ATTORNEYS' FEES

74. The County has moved for an award of attorneys' fees, expenses, and costs pursuant to section 120.595.



75. Section 120.595(1) provides that:

(1) CHALLENGES TO AGENCY ACTION PURSUANT TO SECTION 120.57(1).—

\* \* \*

(c) In proceedings pursuant to s. 120.57(1), and upon motion, the administrative law judge shall determine whether any party participated in the proceeding for an improper purpose as defined by this subsection. In making such determination, the administrative law judge shall consider whether the nonprevailing adverse party has participated in two or more other such proceedings involving the same prevailing party and the same project as an adverse party and in which such two or more proceedings the nonprevailing adverse party did not establish either the factual or legal merits of its position, and shall consider whether the factual or legal position asserted in the instant proceeding would have been cognizable in the previous proceedings. In such event, it shall be rebuttably presumed that the nonprevailing adverse party participated in the pending proceeding for an improper purpose.

\* \* \*

(e) For the purpose of this subsection:

1. “Improper purpose” means participation in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of litigation, licensing, or securing the approval of an activity.

\* \* \*

3. “Nonprevailing adverse party” means a party that has failed to have substantially changed the outcome of the proposed or final agency action which is the subject of a proceeding. ...

76. An objective test is used to determine whether a party challenged the agency action for an “improper purpose.” See *Friends of Nassau Cty, Inc. v. Nassau Cty*, 752 So. 2d 42, 51 (Fla. 1st DCA 2000). As established in *Procacci Commercial Realty, Inc. v. Department of Health and Rehabilitative Services*, 690 So. 2d 603 (Fla. 1st DCA 1997):

The use of an objective standard creates a requirement to make reasonable inquiry regarding pertinent facts and applicable law. In the absence of “direct evidence of the party’s and counsel’s state of mind, we must examine the circumstantial evidence at hand and ask, objectively, whether an ordinary person standing in the party’s or counsel’s shoes would have prosecuted the claim.”

*Id.* at 608 n. 9.

77. Whether a party has participated in a proceeding for an improper purpose is a question of fact, and even absent direct evidence of intent, “[i]n determining a party’s intent, the finder of fact is entitled to rely upon permissible inferences from all the facts and circumstances of the case and the proceedings before him.” *Burke v. Harbor Estates Associates, Inc.*, 591 So. 2d 1034, 1037 (Fla. 1st DCA 1991). In that regard, a reviewing judge may look not only at direct evidence of intent, but may also “examine the circumstantial evidence at hand and ask, objectively, whether an ordinary person standing in the party’s or counsel’s shoes would have prosecuted the claim.” *Friends of Nassau Cty, Inc. v. Nassau Cty.*, 752 So. 2d 42, 51 (Fla. 1st DCA 2000).

78. There was no evidence to suggest that Dr. Still has participated in two or more other proceedings involving the County and the repair of 101st Avenue. Thus, the presumption of an improper purpose is not applicable.

79. The second criterion by which to measure “improper purpose” is whether the action was taken primarily to harass or to cause unnecessary delay, for frivolous purpose, or to needlessly increase the cost of securing the Exemption.

80. 101st Avenue had been, in Dr. Still's words, "wiped out" after the August 2017 rains, a condition worsened as a result of Hurricane Irma. The publicly-used road clearly had to be repaired.

81. It became clear at the hearing that Dr. Still's primary concerns were related to concerns with turbidity and water quality, which Dr. Still admitted pre-dated the road repairs performed under the Exemption, and were *not* worsened due to the exempt road repairs. (Tr. Vol. 2, 346:6-14; 355:23-356:3).

82. Dr. Still admitted that 101st Avenue had not been altered in its course due to the exempt road repairs. (Tr. Vol. 2, 339:17-24). He did dispute whether the ROW had shifted from its original course in the years *before* the exempt road repair work.

83. Though he disputed ownership of the 101st Avenue ROW, Dr. Still admitted that he had no evidence that the County does not own the ROW. (Tr. Vol. 2, 352:25-353:10). He further admitted that he did not review section 95.361. (Tr. Vol. 2, 338:4-16).

84. Dr. Still's dispute as to the extent of the ROW seemingly should have been, and in fact was, resolved by his agreement to sell 1.78 acres of land to the County for the purpose of eliminating possible encroachment onto his property. That sale was commenced and completed as the work under the declared emergency was ongoing. There was no persuasive evidence to establish that the disputed 1.78 acres was actually outside of what was understood by the County to be the historic ROW, but its purchase definitively resolved the issue without the time and expense of litigation. It is difficult to craft an argument that the volitional sale of property to facilitate road repairs in an undisputed ROW, particularly when the travel surface of the road is unchanged, should then become a basis for denial of authorization to perform those road repairs.

85. Dr. Still appeared to have a concern with the initial replacement of an existing 30-inch culvert with two 24-inch culverts under 101st Avenue. Those 24-inch culverts appear in most of the photographs depicting the conditions

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

such an award and the case is remanded by the Suwannee River Water Management District to DOAH for that purpose.

DONE AND ENTERED this 19th day of November, 2020, in Tallahassee, Leon County, Florida.



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E. GARY EARLY  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675  
Fax Filing (850) 921-6847  
[www.doah.state.fl.us](http://www.doah.state.fl.us)

Filed with the Clerk of the  
Division of Administrative Hearings  
this 19th day of November, 2020.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.

BEFORE THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT

PAUL STILL,

Petitioner,

vs.

SRWMD FINAL ORDER NO. 21-001  
DOAH CASE NO. 20-0091

SUWANNEE RIVER WATER  
MANAGEMENT DISTRICT  
and BRADFORD COUNTY,  
FLORIDA,

Respondents.

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**FINAL ORDER**

On November 19, 2020, an administrative law judge (the “ALJ”) with the Division of Administrative Hearings (“DOAH”), issued a Recommended Order (the “RO”) to the Suwannee River Water Management District (the “DISTRICT”) in this case. A copy of the RO is attached hereto as Exhibit “A.” After review of the RO and the record of the proceeding before DOAH, this matter is now before the DISTRICT for final agency action.

**BACKGROUND**

On December 10, 2019, the DISTRICT entered a notice in Environmental Resource Permit (ERP): Exemption, ERP-007-233697-2 (the “EXEMPTION”), by which it determined that the Respondent, BRADFORD COUNTY, FLORIDA (the “COUNTY”)’s activities related to the repair of Southwest 101st Avenue in Bradford County, Florida (the “ROAD”) 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 (“STILL”) filed a Petition Requesting an Administrative Hearing Review challenging the EXEMPTION, which was referred to 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 RO was issued.

No party has filed any exceptions to the RO and the time limit within which such exceptions may be filed has passed. Section 120.57(1)(k), Florida Statutes (“F.S.”); Rule 28-106.217(1), F.A.C.

### **SUMMARY OF RECOMMENDED ORDER**

In the RO, the ALJ concluded that the modified burden of proof established in Section 120.569(2)(p), F.S., is applicable. (RO - page 4, paragraph 55, page 18).<sup>1</sup> The ALJ found that the COUNTY and DISTRICT had established a prima facie case of entitlement for the EXEMPTION (RO - page 4, paragraph 57, page 19). Therefore, the burden of ultimate persuasion was on STILL to prove his case in opposition to the EXEMPTION by a preponderance of the competent and substantial evidence and, thereby, prove that the COUNTY failed to provide reasonable assurance that the standards for issuance of the EXEMPTION were met. (RO - page 4, paragraph 58-59, page 19) The ALJ ultimately found that the COUNTY had provided reasonable assurance that it complied with all applicable standards for the EXEMPTION established by Rule 62-330.051(4)(e) and 62-330.050(9)(b), F.A.C., and that the

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<sup>1</sup>Citations to the RO shall be by page number such that page 2 of the RO will be cited as “(RO - page 2)”. Where the paragraphs are numbered, citations to the RO shall be by paragraph and page number such that paragraph 3 of page 2 of the RO will be cited as “(RO - paragraph 3, page 2)”



COUNTY is entitled to the EXEMPTION (RO - paragraph 73, page 24).

### **CONCLUSION**

The case law of Florida holds that parties to formal administrative proceedings must alert reviewing agencies to any perceived defects in DOAH hearing procedures or in the findings of fact of ALJs by filing exceptions to DOAH recommended orders. *See, e.g., Comm'n on Ethics v. Barker*, 677 So. 2d 254, 256 (Fla. 1996); *Henderson v. Dep't of Health, Bd. of Nursing*, 954 So. 2d 77, 81 (Fla. 5th DCA 2007 ); *Fla. Dep't of Corrs. v. Bradley*, 510 So. 2d 1122, 1124 (Fla. 1st DCA 1987). Having filed no exceptions to any findings of fact the parties “[have] thereby expressed [[their] agreement with, or at least waived any objection to, those findings of fact.” *Env'tl. Coal. of Fla., Inc. v. Broward Cty.*, 586 So. 2d 1212, 1213 (Fla. 1st DCA 1991); *see also Colonnade Med. Ctr., Inc. v. State of Fla., Agency for Health Care Admin.*, 847 So. 2d 540, 542 (Fla. 4th DCA 2003). However, even when exceptions are not filed, an agency head reviewing a recommended order is free to modify or reject any erroneous conclusions of law and interpretations of administrative rules. Section 120.57(1)(I), F.S.

### **CORRECTIONS AND MODIFICATIONS TO THE RECOMMENDED ORDER**

The DISTRICT agrees with the ALJ's legal conclusions and recommendations made in the RO. Therefore, the DISTRICT is not correcting or modifying the RO.

### **ATTORNEYS FEES AND COSTS**

Under Florida Law:

The final order in a proceeding pursuant to s. 120.57(1) shall award reasonable costs and a reasonable attorney's fee to the prevailing party only where the nonprevailing adverse party has been determined by the administrative law judge to have participated in the proceeding for an improper purpose.

Section 120.595(1)(b), F.S.

The requirements of Section 120.595(1)(b), F.S., have been met and an award of reasonable costs and a reasonable attorney's fee is warranted in this case because:

- A. This proceeding is a proceeding pursuant to Section 120.57(1), F.S. (RO - page 18, paragraph 54; page 19, paragraph 59)
- B. STILL has failed to substantially change the outcome of the proposed or final agency action which is the subject of this proceeding. Therefore, STILL is a "nonprevailing adverse party" as defined by Section 120.595(1)(e)3, F.S.
- C. The ALJ has determined that STILL participated in this proceeding for an improper purpose as set out below.

**STILL PARTICIPATED IN THIS PROCEEDING FOR AN IMPROPER PURPOSE**

An "improper purpose" is statutorily defined as follows:

"Improper purpose" means participation in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of litigation, licensing, or securing the approval of an activity.

Section 120.57(1)(e)1, F.S.

The ALJ determined that STILL participated in this proceeding for an improper purpose, when the ALJ expressly found:

82. Dr. Still admitted that 101st Avenue had not been altered in its course due to the exempt road repairs. (Tr. Vol. 2, 339:17-24). He did dispute whether the ROW had shifted from its original course in the years *before* the exempt road repair work.

83. Though he disputed ownership of the 101st Avenue ROW, Dr. Still admitted that he had no evidence that the County does not own the ROW. (Tr. Vol. 2, 352:25-353:10). He further admitted that he did not review section 95.361.

(Tr. Vol. 2, 338:4-16).

84. Dr. Still's dispute as to the extent of the ROW seemingly should have been, and in fact was, resolved by his agreement to sell 1.78 acres of land to the County for the purpose of eliminating possible encroachment onto his property. That sale was commenced and completed as the work under the declared emergency was ongoing. There was no persuasive evidence to establish that the disputed 1.78 acres was actually outside of what was understood by the County to be the historic ROW, but its purchase definitively resolved the issue without the time and expense of litigation. It is difficult to craft an argument that the volitional sale of property to facilitate road repairs in an undisputed ROW, particularly when the travel surface of the road is unchanged, should then become a basis for denial of authorization to perform those road repairs.

85. Dr. Still appeared to have a concern with the initial replacement of an existing 30- inch culvert with two 24-inch culverts under 101st Avenue. Those 24-inch culverts appear in most of the photographs depicting the conditions 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.**

(RO at page 27-28) (Emphasis supplied)

Finally, the ALJ not only determined that STILL challenged the EXEMPTION for an improper purpose, but also determined that STILL's "improper purpose" applied to both the DISTRICT and the COUNTY (RO - page 28, paragraph 86). STILL did not file any exceptions to the this finding of fact. Therefore STILL has expressed his "agreement with, or at least

waived any objection to” this finding of fact. *Envtl. Coal. of Fla., Inc.*, at 1213. As the ALJ expressly found that STILL’s improper purpose applied to both the DISTRICT and the COUNTY, both the DISTRICT and the COUNTY are entitled to an award of reasonable costs and a reasonable attorney’s fee pursuant to Section 120.595(1)(b), F.S.

### **ORDER**

Having reviewed the RO and the record of the proceeding before DOAH, and having considered the applicable law and being otherwise duly advised, it is ORDERED that:

- A. The RO is adopted in its entirety, and incorporated herein by reference.
- B. The DISTRICT hereby approves 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), F.A.C.;
- C. Pursuant to Section 120.595(1), F.S., the COUNTY is hereby awarded its reasonable costs and reasonable attorney’s fees incurred in this proceeding.
- D. Pursuant to Section 120.595(1), F.S., the DISTRICT is hereby awarded its reasonable costs and reasonable attorney’s fees incurred in this proceeding.
- E. This case is hereby remanded to the Division of Administrative Hearings for the limited purpose of (1) determining the award of reasonable costs and reasonable attorney’s fees to the COUNTY; and (2) determining the award of reasonable costs and reasonable attorney’s fees to the DISTRICT.

### **JUDICIAL REVIEW**

Any party to this proceeding has the right to seek judicial review of this Final Order

pursuant to Section 120.68, Florida Statutes, by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the clerk of the Suwannee River Water Management District, 9225 CR 49, Live Oak, Florida 32060; 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 30 days from the date this Final Order is filed with the clerk of the Suwannee River Water Management District.

(The remainder of this page was intentionally left blank.)

DONE and ORDERED on \_\_\_\_\_, 2021.

GOVERNING BOARD OF THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT

By: \_\_\_\_\_  
Virginia H. Johns  
Chair

ATTEST: \_\_\_\_\_  
Charles Keith  
Secretary / Treasurer

**CERTIFICATE OF FILING**

I HEREBY CERTIFY that the above order was filed with the Suwannee River Water Management District on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Warren Zwanka  
Deputy Agency Clerk  
Suwannee River Water Management District

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above order was provided to:

Paul Still  
14167 SW 101st Ave  
Starke, FL 32091  
Email: stillpe@aol.com

William E. Sexton  
14167 Southwest 101st Avenue  
Starke, FL 32091  
Email: will\_sexton@bradfordcountyfl.gov

by email on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Warren Zwanka  
Deputy Agency Clerk  
Suwannee River Water Management District

BEFORE THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT

PAUL STILL,

Petitioner,

vs.

SRWMD FINAL ORDER NO. 21-001  
DOAH CASE NO. 20-0091

SUWANNEE RIVER WATER  
MANAGEMENT DISTRICT  
and BRADFORD COUNTY,  
FLORIDA,

Respondents.

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**FINAL ORDER**

On November 19, 2020, an administrative law judge (the “ALJ”) with the Division of Administrative Hearings (“DOAH”), issued a Recommended Order (the “RO”) to the Suwannee River Water Management District (the “DISTRICT”) in this case. A copy of the RO is attached hereto as Exhibit “A.” After review of the RO and the record of the proceeding before DOAH, this matter is now before the DISTRICT for final agency action.

**BACKGROUND**

On December 10, 2019, the DISTRICT entered a notice in Environmental Resource Permit (ERP): Exemption, ERP-007-233697-2 (the “EXEMPTION”), by which it determined that the Respondent, BRADFORD COUNTY, FLORIDA (the “COUNTY”)’s activities related to the repair of Southwest 101st Avenue in Bradford County, Florida (the “ROAD”) 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 (“STILL”) filed a Petition Requesting an Administrative Hearing Review challenging the EXEMPTION, which was referred to 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 RO was issued.

No party has filed any exceptions to the RO and the time limit within which such exceptions may be filed has passed. Section 120.57(1)(k), Florida Statutes (“F.S.”); Rule 28-106.217(1), F.A.C.

### **SUMMARY OF RECOMMENDED ORDER**

In the RO, the ALJ concluded that the modified burden of proof established in Section 120.569(2)(p), F.S., is applicable. (RO - page 4, paragraph 55, page 18).<sup>1</sup> The ALJ found that the COUNTY and DISTRICT had established a prima facie case of entitlement for the EXEMPTION (RO - page 4, paragraph 57, page 19). Therefore, the burden of ultimate persuasion was on STILL to prove his case in opposition to the EXEMPTION by a preponderance of the competent and substantial evidence and, thereby, prove that the COUNTY failed to provide reasonable assurance that the standards for issuance of the EXEMPTION were met. (RO - page 4, paragraph 58-59, page 19) The ALJ ultimately found that the COUNTY had provided reasonable assurance that it complied with all applicable standards for the EXEMPTION established by Rule 62-330.051(4)(e) and 62-330.050(9)(b), F.A.C., and that the

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<sup>1</sup>Citations to the RO shall be by page number such that page 2 of the RO will be cited as “(RO - page 2)”. Where the paragraphs are numbered, citations to the RO shall be by paragraph and page number such that paragraph 3 of page 2 of the RO will be cited as “(RO - paragraph 3, page 2)”



COUNTY is entitled to the EXEMPTION (RO - paragraph 73, page 24).

### **CONCLUSION**

The case law of Florida holds that parties to formal administrative proceedings must alert reviewing agencies to any perceived defects in DOAH hearing procedures or in the findings of fact of ALJs by filing exceptions to DOAH recommended orders. *See, e.g., Comm'n on Ethics v. Barker*, 677 So. 2d 254, 256 (Fla. 1996); *Henderson v. Dep't of Health, Bd. of Nursing*, 954 So. 2d 77, 81 (Fla. 5th DCA 2007 ); *Fla. Dep't of Corrs. v. Bradley*, 510 So. 2d 1122, 1124 (Fla. 1st DCA 1987). Having filed no exceptions to any findings of fact the parties “[have] thereby expressed [[their] agreement with, or at least waived any objection to, those findings of fact.” *Env'tl. Coal. of Fla., Inc. v. Broward Cty.*, 586 So. 2d 1212, 1213 (Fla. 1st DCA 1991); *see also Colonnade Med. Ctr., Inc. v. State of Fla., Agency for Health Care Admin.*, 847 So. 2d 540, 542 (Fla. 4th DCA 2003). However, even when exceptions are not filed, an agency head reviewing a recommended order is free to modify or reject any erroneous conclusions of law and interpretations of administrative rules. Section 120.57(1)(I), F.S.

### **CORRECTIONS AND MODIFICATIONS TO THE RECOMMENDED ORDER**

The DISTRICT agrees with the ALJ's legal conclusions and recommendations made in the RO. Therefore, the DISTRICT is not correcting or modifying the RO.

### **ATTORNEYS FEES AND COSTS**

Under Florida Law:

The final order in a proceeding pursuant to s. 120.57(1) shall award reasonable costs and a reasonable attorney's fee to the prevailing party only where the nonprevailing adverse party has been determined by the administrative law judge to have participated in the proceeding for an improper purpose.

Section 120.595(1)(b), F.S.

The requirements of Section 120.595(1)(b), F.S., have been met and an award of reasonable costs and a reasonable attorney's fee is warranted in this case because:

- A. This proceeding is a proceeding pursuant to Section 120.57(1), F.S. (RO - page 18, paragraph 54; page 19, paragraph 59)
- B. STILL has failed to substantially change the outcome of the proposed or final agency action which is the subject of this proceeding. Therefore, STILL is a "nonprevailing adverse party" as defined by Section 120.595(1)(e)3, F.S.
- C. The ALJ has determined that STILL participated in this proceeding for an improper purpose as set out below.

**STILL PARTICIPATED IN THIS PROCEEDING FOR AN IMPROPER PURPOSE**

An "improper purpose" is statutorily defined as follows:

"Improper purpose" means participation in a proceeding pursuant to s. 120.57(1) primarily to harass or to cause unnecessary delay or for frivolous purpose or to needlessly increase the cost of litigation, licensing, or securing the approval of an activity.

Section 120.57(1)(e)1, F.S.

The ALJ determined that STILL participated in this proceeding for an improper purpose, when the ALJ expressly found:

82. Dr. Still admitted that 101st Avenue had not been altered in its course due to the exempt road repairs. (Tr. Vol. 2, 339:17-24). He did dispute whether the ROW had shifted from its original course in the years *before* the exempt road repair work.

83. Though he disputed ownership of the 101st Avenue ROW, Dr. Still admitted that he had no evidence that the County does not own the ROW. (Tr. Vol. 2, 352:25-353:10). He further admitted that he did not review section 95.361.

(Tr. Vol. 2, 338:4-16).

84. Dr. Still's dispute as to the extent of the ROW seemingly should have been, and in fact was, resolved by his agreement to sell 1.78 acres of land to the County for the purpose of eliminating possible encroachment onto his property. That sale was commenced and completed as the work under the declared emergency was ongoing. There was no persuasive evidence to establish that the disputed 1.78 acres was actually outside of what was understood by the County to be the historic ROW, but its purchase definitively resolved the issue without the time and expense of litigation. It is difficult to craft an argument that the volitional sale of property to facilitate road repairs in an undisputed ROW, particularly when the travel surface of the road is unchanged, should then become a basis for denial of authorization to perform those road repairs.

85. Dr. Still appeared to have a concern with the initial replacement of an existing 30- inch culvert with two 24-inch culverts under 101st Avenue. Those 24-inch culverts appear in most of the photographs depicting the conditions 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.**

(RO at page 27-28) (Emphasis supplied)

Finally, the ALJ not only determined that STILL challenged the EXEMPTION for an improper purpose, but also determined that STILL's "improper purpose" applied to both the DISTRICT and the COUNTY (RO - page 28, paragraph 86). STILL did not file any exceptions to the this finding of fact. Therefore STILL has expressed his "agreement with, or at least

waived any objection to” this finding of fact. *Envtl. Coal. of Fla., Inc.*, at 1213. As the ALJ expressly found that STILL’s improper purpose applied to both the DISTRICT and the COUNTY, both the DISTRICT and the COUNTY are entitled to an award of reasonable costs and a reasonable attorney’s fee pursuant to Section 120.595(1)(b), F.S.

**AMOUNT OF AWARDS**

The total amount of reasonable attorney’s fees and costs to be awarded to the DISTRICT is \$30,000.00. The total amount of reasonable attorney’s fees and costs to be awarded to the COUNTY is \$30,000.00.

**ENFORCEMENT OF AWARD**

Neither the COUNTY nor the DISTRICT will seek to enforce its award of attorney’s fees and costs unless and until any one or more of the following occurs:

- A. STILL and/or Kathleen Still (“STILL’S SPOUSE”) file a petition for administrative hearing, of any kind, with the DISTRICT, the St. Johns River Water Management District (“ST. JOHNS”) the Florida Department of Environmental Protection (“FDEP”) or DOAH.
- B. STILL and/or STILL’S SPOUSE appear as a party (petitioner, intervenor or otherwise) or amicus in an administrative proceeding, of any kind, in which the DISTRICT, ST. JOHNS, FDEP and/or the COUNTY is party. (STILL and/or STILL’S SPOUSE would not be deemed to “appear as a party (petitioner, intervenor or otherwise) or amicus in an administrative proceeding” where they appear as a witness in such proceeding, provided such appearance was in response to a lawfully issued subpoena.)
- C. STILL and/or STILL’S SPOUSE appear as a qualified representative in an administrative

proceeding, of any kind, in which the DISTRICT, ST. JOHNS, FDEP and/or the COUNTY is a party;

- D. STILL and/or STILL'S SPOUSE file a complaint or petition, of any kind, with any court or tribunal against the DISTRICT, ST. JOHNS, FDEP and/or the COUNTY;
- E. STILL and/or STILL'S SPOUSE participate as a party (plaintiff, petitioner, intervenor, or otherwise) or amicus in any proceeding, of any kind, before any court or tribunal in which the DISTRICT, ST. JOHNS, FDEP and/or the COUNTY is a party. (STILL and/or STILL'S SPOUSE would not be deemed to "participate as a party (plaintiff, petitioner, intervenor, or otherwise) or amicus in any proceeding" where they appear as a witness in such proceeding, provided such appearance was in response to a lawfully issued subpoena.); or,
- F. The use of the standing or membership of STILL and/or STILL'S SPOUSE to establish the associational standing of an association or group in an administrative or judicial proceeding, of any kind, in which the DISTRICT, ST. JOHNS, FDEP and/or the COUNTY is party.

(A though F above shall be referred to herein as the "TRIGGERING EVENTS")

### **ORDER**

Having reviewed the RO and the record of the proceeding before DOAH, and having considered the applicable law and being otherwise duly advised, and upon the stipulation of all parties, it is ORDERED that:

- A. The RO is adopted in its entirety, and incorporated herein by reference, except that this case shall not be remanded to DOAH. As the parties have stipulated to

the amount of the awards of attorneys fees and costs and the entry of this final order, no remand to DOAH is necessary.

- B. The DISTRICT hereby approves 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), F.A.C.;
- C. Pursuant to Section 120.595(1), F.S., the COUNTY is hereby provisionally awarded its reasonable costs and reasonable attorney's fees incurred in this proceeding (the "COUNTY AWARD") as a sanction against STILL. The stipulated amount of the COUNTY AWARD is \$30,000.00, plus interest at the legal rate from the date of this final order. Provided that STILL shall not be liable for, and the COUNTY shall not seek to enforce, the COUNTY AWARD unless and until one or more of the TRIGGERING EVENTS occurs within the next 20 years after the date of this final order. If any one or more of the TRIGGERING EVENTS occurs within the next 20 years after the date of this final order, then, within 30 days after written demand of the COUNTY, STILL shall pay the full amount of the COUNTY AWARD to the COUNTY. If none of the TRIGGERING EVENTS occurs within the next 20 years after the date of this final order, then STILL shall never be liable for nor required to pay the COUNTY AWARD. Should STILL be required to pay the COUNTY AWARD as provided herein and fail to do so in whole or in part, the COUNTY may seek to enforce payment of the full amount of the COUNTY AWARD pursuant to Section

120.569(k)2, F.S., and all other applicable provisions of law and in any such enforcement action the prevailing party shall be entitled to recover its costs and reasonable attorneys fees incurred therein.

- D. Pursuant to Section 120.595(1), F.S., the DISTRICT is hereby provisionally awarded its reasonable costs and reasonable attorney's fees incurred in this proceeding (the "DISTRICT AWARD") as a sanction against STILL. The stipulated amount of the DISTRICT AWARD is \$30,000.00, plus interest at the legal rate from the date of this final order. Provided that STILL shall not be liable for, and the DISTRICT shall not seek to enforce, the DISTRICT AWARD unless and until one or more of the TRIGGERING EVENTS occurs within the next 20 years after the date of this final order. If any one or more of the TRIGGERING EVENTS occurs within the next 20 years after the date of this final order, then, within 30 days after written demand of the DISTRICT, STILL shall pay the full amount of the DISTRICT AWARD to the DISTRICT. If none of the TRIGGERING EVENTS occurs within the next 20 years after the date of this final order, then STILL shall never be liable for nor required to pay the DISTRICT AWARD. Should STILL be required to pay the DISTRICT AWARD as provided herein and fail to do so in whole or in part, the DISTRICT may seek to enforce payment of the full amount of the DISTRICT AWARD pursuant to Section 120.569(k)2, F.S., and all other applicable provisions of law and in any such enforcement action the prevailing party shall be entitled to recover its costs and reasonable attorneys fees incurred therein.

**ACKNOWLEDGMENT OF STIPULATION AND  
REQUEST TO ENTER FINAL ORDER**

We hereby stipulate to the matters set out in this final order, request the governing board of the DISTRICT enter this final order and forever waive all objections thereto.

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Paul Still Petitioner	Date
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William E. Sexton Attorney for the Respondent Bradford County, Florida	Date
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**JUDICIAL REVIEW**

Any party to this proceeding has the right to seek judicial review of this Final Order pursuant to Section 120.68, Florida Statutes, by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the clerk of the Suwannee River Water Management District, 9225 CR 49, Live Oak, Florida 32060; 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 30 days from the date this Final Order is filed with the clerk of the Suwannee River Water Management District.

(The remainder of this page was intentionally left blank.)



DONE and ORDERED on \_\_\_\_\_, 2021.

GOVERNING BOARD OF THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT

By: \_\_\_\_\_  
Virginia H. Johns  
Chair

ATTEST: \_\_\_\_\_  
Charles Keith  
Secretary / Treasurer

**CERTIFICATE OF FILING**

I HEREBY CERTIFY that the above order was filed with the Suwannee River Water Management District on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Warren Zwanka  
Deputy Agency Clerk  
Suwannee River Water Management District

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above order was provided to:

Paul Still  
14167 SW 101st Ave  
Starke, FL 32091  
Email: stillpe@aol.com

William E. Sexton  
14167 Southwest 101st Avenue  
Starke, FL 32091  
Email: will\_sexton@bradfordcountyfl.gov

by email on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Warren Zwanka  
Deputy Agency Clerk  
Suwannee River Water Management District

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board  
FROM: Stephen Schroeder, Chief, Office of Administration  
THRU: Steve Minnis, Deputy Executive Director, Business and Community Services  
DATE: January 29, 2021  
RE: Land Acquisition and Disposition Activity Report

Attached for your information is the Land Acquisition and Disposition Activity Report.

SS/tm  
Attachments

**LAND ACQUISITION AND DISPOSITION ACTIVITY REPORT  
FEBRUARY 2021**

Property Offers						
Tract	Acres	County	Submittal Date	Asking Price	Acquisition Type	Comments
Gilchrist Lyme	17,854	Gilchrist	03.2019	Exchange acreage dependent on configuration/ Sandlin Bay 2,023 acre (USFS)	Conservation Easement	Tabled by Lands Committee 6.11.2019. Offeror has contract for sale of property. On hold.
Quail Heights	40.63	Columbia	07.2019	\$2,000,000	Fee	Staff review on 8.8.2019 recommended purchase in partnership with FDOT. Approved by Lands Committee on 2.11.2020. Approved by Governing Board 3.10.2020. Submitted for Springs Grant funding. Springs Grant funding not obtained for FY 2020. Property acquired by FDOT on 9.10.2020. On Lands Committee agenda for 11.10.2020 for partnership consideration with FDOT. Lands Committee approved contribution to acquisition costs 11.10.2020. On Governing Board agenda 12.08.2020. Governing Board approved on consent agenda 12.8.2020. Draft agreement provided by FDOT under review.
Santa Fe Springs (ACT) a/k/a Zow, Graham Springs	282	Columbia	08.2019	\$139,041	Fee	Staff recommendation to proceed with detailed analysis and negotiations approved by Lands Committee on 12.12.2019. Approved by Governing Board on 1.14.2020. Due diligence documentation submitted by ACT and being reviewed. Drafting CE to prepare for closing after Springs Grant Funding released. Funded on Springs Grant list. Staff beginning process to finalize transaction including completion of CE terms. Draft CE submitted to ACT for review 12.9.2020. ACT comments received and being reviewed.
Rio Lindo Conservation Easement	313	Gilchrist	10.2020	\$750,000	Conservation Easement	Lands Committee requested additional information at its 11.10.2020 meeting. Requested information submitted at the 12.8.2020 meeting and staff recommendation to proceed with detailed assessments and negotiations was unanimously approved. On Governing Board agenda 1.12.21. Approved by Governing Board on 1.12.21. Discussions underway with seller on due diligence cost sharing. Seller is editing SRWMD Template CE for property.
Approved for Detailed Assessment						
Owner	Project Name	Acres	County	Comments		
McB-Pinehatchee	Steinhatchee North/ RO Ranch West-Equestrian	2950/1,277	Lafayette	Approved by Governing Board 11.12.2019. Negotiations in progress. Appraisals received 8.18.2020. Staff reviewing values with NFLT and McB for negotiations. 10.13.2020 Governing Board authorized release of appraisals. Appraisals provided and negotiations ongoing. NFLT to conduct mineral rights exploitation feasibility study as it relates to a portion of the proposed exchange tract		
Drufner	Withlacoochee Hills	10	Hamilton	Approved by Governing Board 11.12.2019. Offer submitted to Seller. Counteroffer tentatively accepted subject to final Board approval and satisfactory Environment Survey Assessment. ESA contractor selected and engaged. ESA report received. On Lands Agenda for 9.21.2020 for approval. Final acquisition approved by Governing Board on 10.13.2020. Title work underway for closing. Closed 12.22.20.		
Hickman	Alapaha Point	39.8	Hamilton	Staff recommendation to proceed with detailed analysis and negotiations approved by Lands Committee on 12.12.2019. Approved by Governing Board on 1.14.2020. Appraisal received on 5.15.2020. Staff preparing an offer. Offer submitted. Counter-offer received. Counter-offer raised some title concerns. Title issues clarified through public records research and will be verified through formal title search. Staff is accepting counter-offer and will move forward with assessments and negotiations.		
Michael and Freda Shaw	Shaw Conservation Easement Exchange	1,099	Lafayette	Negotiations ongoing.		
Crosby Lake	Crosby Lake	1,380	Bradford	Approved for detailed assessment and negotiations 12.8.2020. Staff proceeding with discussions and project assessment including Bradford County and the City of Starke.		
Camp and Abel	Camp and Abel	266	Hamilton	Approved for detailed assessment and negotiations 12.8.2020. Property being tasked to NFLT for negotiation and assessment.		
Bearden	Alapaha Bearden Conservation Easement	430	Hamilton	Staff recommendation to proceed with detailed assessment and negotiations. Scheduled for Lands Committee 6.9.2020. Approved by Lands Committee on 6.9.2020 with proviso that if a Phase 2 ESA is required it will come back to Lands Committee. Approved by Governing Board on 7.14.2020. Awaiting response from Offeror regarding willingness to proceed and contribute to costs. Property has been sold. Offer withdrawn 1.16.21		
Pfleiger	Riverbend Estates	1.1	Dixie	Staff recommendation to proceed with detailed assessment and negotiations. Approved by Lands Committee on 6.9.2020. Approved by Governing Board agenda on 7.14.2020. In discussions with Offeror to exchange for Timber River parcel in Madison County. Offeror has tentatively agreed to exchange. Contract being prepared.		

Proposed for Surplus							
Tract	Acres	County	Acquired Date	Funding	Appraisal Date	Price	Comments
None pending.							

Authorized for Surplus							
Tract	Acres	County	Acquired Date	Funding	Appraisal Date	Price	Comments
Branford Bend	50	Suwannee	6.30.2004	Florida Forever	N/A	TBD by appraisal update.	Suspended until further review. Staff review scheduled for 8.8.2019. Staff recommends continuing surplus process to explore potential land exchanges adjacent to tract. Appraisal update required.
Country Club Road	80	Columbia	7.1.2015	Enforcement Action	TBD	TBD by appraisal update.	Title commitment and survey completed. Governing Board reaffirmed surplus 7.9.2019. Engineering and design process underway. Negotiations for potential sale ongoing pending final engineering/project plans. Remediation plan being finalized. Staff continues to develop disposition plans and communication plan relative to surrounding properties.
Forest Woodlands	11	Gilchrist	10.11.1996	Save Our Rivers	TBD	To be determined by appraisal.	Staff recommended for surplus. Approved by Lands Committee on 10.10.2019. Approved by Governing Board 11.12.2019. Will be offered to adjacent property owners.
Santa Fe Oasis	1	Gilchrist	4.28.1998	Save Our Rivers	TBD	TBD by appraisal update.	Approved by Lands Committee on 4.14.2020. Approved by Governing Board 5.12.2020. Offered for surplus via District website. Offered for sale to adjacent owners, two offers received. Approved by Lands Committee 8.11.2020 to accept highest offer. Scheduled for Governing Board agenda 9.8.2020. Withdrawn from Board on 9.8.2020. Being resubmitted to Lands Committee for its 9.21.2020 meeting for staff recommendation to reject all offers and offer for sale to the general public. Governing Board approved Lands Committee recommendation on 10.13.2020. All bids rejected and property will be offered for sale to the general public.
Suwannee Run Shores	1.175	Dixie	12.30.1997	Save Our Rivers	TBD	To be determined by appraisal.	Staff recommended for surplus. Approved by Lands Committee 7.9.2019. Approved by Governing Board 8.13.2019. To be offered to adjacent property owners. Adjacent Property owners notified, responses/bids with appraisals due 4.15.2020. No responses received, will be posted on website and offer for sale to general public.
Three Rivers Estates	1	Columbia	12.30.1997	Save Our Rivers	N/A	TBD by appraisal update.	Staff recommended for surplus. Approved by Lands Committee 7.9. 2019. Approved by Governing Board 8.8.2019. To be offered to adjacent property owners. Adjacent Property owners notified, responses/bids with appraisals due 4.15.2020. Two offers received, highest offer approved by Lands Committee 6.9.2020. On Governing Board agenda for 7.14.2020. Approved by Governing Board 7.14.2020. Contract being drafted.
Turtle Spring Surplus Tract	32	Lafayette	5.13.2015	Florida Forever	5.24.2015	TBD by appraisal update.	Suspended until further review. Attempting to verify final surplus status/approval by Governing Board.

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board  
FROM: Stephen Schroeder, Chief, Office of Administration  
THRU: Steve Minnis, Deputy Executive Director, Business and Community Services  
DATE: January 29, 2021  
RE: Dispose of a Previously Surplused 2000 Massey Ferguson Tractor

**RECOMMENDATION**

Authorize the Executive Director to dispose of a previously surplused 2000 Massey Ferguson tractor with five implements.

**BACKGROUND**

At its regular meeting in March 2015, the Governing Board declared as surplus to the needs of the District a 2000 Massey Ferguson tractor and implements because the tractor had reached the end of its useful life and no longer served the needs of the District. The Board approved the surplus and authorized transfer of the property to R.O. Ranch, Inc. Upon dissolution of R.O. Ranch, Inc., the tractor was donated back to the District. For reasons stated in the original surplus authorization, the tractor was not placed back into the Districts fixed asset inventory nor was it used by the District. The tractor remains surplus to the needs of the District.

District staff will dispose of the property in accordance with section 273.055, Florida Statutes.

SCS/tm

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board  
FROM: Stephen Schroeder, Chief, Office of Administration  
THRU: Steve Minnis, Deputy Executive Director, Business and Community Services  
DATE: January 29, 2021  
RE: Contract Number 19/20-164 Amendment, Ivey League Cleaning Services, LLC.

**RECOMMENDATION**

Authorize the Executive Director to amend to Contract Number 19/20-164 with Ivey League Cleaning Services for enhanced sanitization services, for an amount not to exceed \$40,000.

**BACKGROUND**

In September 2020, the District renewed the contract with Ivey League Cleaning Services, LLC., for an amount not to exceed \$25,500. Due to the COVID-19 pandemic, the District increased service days and implemented nightly sanitization of common areas in addition to the base services agreement. In anticipation that enhanced sanitization will continue to be required, staff is requesting an additional \$14,500 be added to the contract amount through September 30, 2021. If COVID-19 guidelines reduce or eliminate the need for the additional, enhanced services, the contract payments will be reduced accordingly.

Contract amounts are set forth below.

Base Monthly Amount	\$1,750
COVID-19 Monthly Amount	\$1,480
Total Monthly Amount (Est)	\$3,230
Total Annual Amount	\$38,760

The amount requested that exceeds the current projected cost will be used in the event additional services need to be added as COVID-19 related guidelines are updated.

Funding for this contract is included in the Fiscal Year 2020-2021 Final Budget under the following account codes - 13-2586-3-3300-03 and 13-2586-3-3500-20-52.

SCS/tm

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board  
FROM: Pam Shaw, Chief, Office of Finance  
THRU: Steve Minnis, Deputy Executive Director, Business and Community Services  
DATE: January 29, 2021  
RE: December 2020 Financial Report

**RECOMMENDATION**

Approve the November 2020 Financial Report and confirm the expenditures of the District.

**BACKGROUND**

Section 373.553(1), Florida Statutes (F.S.), authorizes the delegation of authority by the Governing Board to the Executive Director to disburse District funds, providing certification is made to the Board at the next regular meeting that such disbursement is proper, in order, and within budgetary limits. In compliance with the statutory provisions in Chapter 373, F.S., the Governing Board of the Suwannee River Water Management District has directed staff to prepare a Financial Report as attached.

PS/tm  
Attachments

**Suwannee River Water Management District  
Cash Report  
December 2020**

<b>Financial Institution/Account</b>	<b>Monthly Interest</b>	<b>Interest Rate %</b>	<b>Closing Balance</b>
First Federal Permit Fee	\$0.00		\$1,172.42
First Federal Accounts Payable	\$0.00		\$35,000.00
First Federal EFT Disbursements	\$0.00		\$0.00
First Federal Depository	\$96.21	0.01%	\$1,298,733.75
Special Purpose Investment Account (SPIA)*	<u>\$63,111.31</u>	1.77%	<u>\$45,122,161.36</u>
TOTAL	<u><u>\$63,207.52</u></u>		<u><u>\$46,457,067.53</u></u>

\*SPIA is part of the Florida Treasury Investment Pool



**Suwannee River Water Management District  
Statement of Sources and Uses of Funds  
For the Month ending December 31, 2020  
(Unaudited)**

	<b>Current Budget</b>	<b>Actuals Through 12/31/2020</b>	<b>Variance (Under)/Over Budget</b>	<b>Actuals As A % of Budget</b>
<b>Sources</b>				
Ad Valorem Property Taxes	\$ 6,034,682	\$ 4,364,972	\$ (1,669,710)	72.3%
Intergovernmental Revenues	\$ 39,950,983	\$ 456,577	\$ (39,494,406)	1.1%
Interest on Invested Funds	\$ 130,000	\$ 203,730	\$ 73,730	156.7%
License and Permit Fees	\$ 163,000	\$ 52,753	\$ (110,247)	32.4%
Other	\$ 1,000,000	\$ 338,641	\$ (661,359)	33.9%
Fund Balance <sup>1</sup>	\$ 11,789,923	\$ 40,060	\$ (11,749,863)	0.3%
<b>Total Sources</b>	<b>\$ 59,068,588</b>	<b>\$ 5,456,732</b>	<b>\$ (53,611,856)</b>	<b>9.2%</b>

	<b>Current Budget</b>	<b>Expenditures</b>	<b>Encumbrances <sup>2</sup></b>	<b>Available Budget</b>	<b>%Expended</b>	<b>%Obligated <sup>3</sup></b>
<b>Uses</b>						
Water Resources Planning and Monitoring	\$ 11,309,318	\$ 911,338	\$ 3,914,542	\$ 6,483,438	8%	43%
Acquisition, Restoration and Public Works	\$ 37,812,028	\$ 621,317	\$ 22,182,841	\$ 15,007,870	2%	60%
Operation and Maintenance of Lands and Works	\$ 6,127,699	\$ 430,748	\$ 1,536,310	\$ 4,160,641	7%	32%
Regulation	\$ 1,894,389	\$ 355,668	\$ 57,089	\$ 1,481,632	19%	22%
Outreach	\$ 243,657	\$ 21,235	\$ -	\$ 222,423	9%	9%
Management and Administration	\$ 1,681,497	\$ 358,075	\$ 79,047	\$ 1,244,375	21%	26%
<b>Total Uses</b>	<b>\$ 59,068,588</b>	<b>\$ 2,698,381</b>	<b>\$ 27,769,829</b>	<b>\$ 28,600,378</b>	<b>5%</b>	<b>52%</b>

<sup>1</sup> Actual Fund Balance used is recorded at the end of the fiscal year. This amount represents Fund Balance used for the Agricultural and RIVER Cost-Share, Regional Water Resource Development, and Project Effectiveness Metrics Programs.

<sup>2</sup> Encumbrances represent unexpended balances of open purchase orders and contracts.

<sup>3</sup> Represents the sum of expenditures and encumbrances as a percentage of the available budget.

This financial statement is prepared as of December 31, 2020 and covers the interim period since the most recent audited financial statements.

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**  
**STATEMENT OF ACTIVITY - REVENUE AND EXPENSE ROLLUP (UNAUDITED)**  
**FOR 12/31/2020**

	Y-T-D ACTUAL	ENCUMBRANCE	ANNUAL BUDGET
<b><u>Report Recap -</u></b>			
<b>REVENUES</b>			
DISTRICT REVENUES	4,960,096	0	7,327,682
LOCAL REVENUES	0	0	86,480
STATE REVENUES	289,162	0	36,208,503
FEDERAL REVENUES	167,415	0	3,656,000
FUND BALANCE UTILIZATION	40,060	0	11,789,923
<b>TOTAL REVENUES</b>	<b>5,456,733</b>	<b>0</b>	<b>59,068,588</b>
<b>EXPENDITURES</b>			
SALARIES AND BENEFITS	1,390,547	0	6,709,559
CONTRACTUAL SERVICES	822,978	8,440,813	22,052,900
OPERATING EXPENDITURES	242,866	85,863	1,810,700
OPERATING CAPITAL OUTLAY	41,682	128,728	410,044
FIXED CAPITAL OUTLAY	18,519	0	5,077,000
INTERAGENCY EXPENDITURES	181,790	19,114,426	23,008,385
<b>TOTAL EXPENDITURES</b>	<b>2,698,382</b>	<b>27,769,830</b>	<b>59,068,588</b>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<b>2,758,351</b>	<b>(27,769,830)</b>	<b>0</b>
<b><u>General Fund -</u></b>			
<b>REVENUES</b>			
DISTRICT REVENUES	4,562,120	0	4,938,432
LOCAL REVENUES	0	0	86,480
STATE REVENUES	15,997	0	2,740,000
FEDERAL REVENUES	0	0	0
FUND BALANCE UTILIZATION	0	0	1,866,522
<b>TOTAL REVENUES</b>	<b>4,578,117</b>	<b>0</b>	<b>9,631,434</b>
<b>EXPENDITURES</b>			
SALARIES AND BENEFITS	1,087,013	0	5,181,595
CONTRACTUAL SERVICES	93,630	667,955	2,074,290
OPERATING EXPENDITURES	100,207	37,221	1,016,233
OPERATING CAPITAL OUTLAY	23,215	0	253,336
FIXED CAPITAL OUTLAY	0	0	0
INTERAGENCY EXPENDITURES	111,832	577,430	1,105,980
<b>TOTAL EXPENDITURES</b>	<b>1,415,897</b>	<b>1,282,606</b>	<b>9,631,434</b>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<b>3,162,220</b>	<b>(1,282,606)</b>	<b>0</b>
<b><u>Land Management Operations -</u></b>			
<b>REVENUES</b>			
DISTRICT REVENUES	286,131	0	2,314,250
LOCAL REVENUES	0	0	0
STATE REVENUES	0	0	2,290,119
FEDERAL REVENUES	0	0	40,000
FUND BALANCE UTILIZATION	0	0	2,020,330
<b>TOTAL REVENUES</b>	<b>286,131</b>	<b>0</b>	<b>6,664,699</b>
<b>EXPENDITURES</b>			
SALARIES AND BENEFITS	167,702	0	786,979
CONTRACTUAL SERVICES	118,297	1,413,848	3,328,610
OPERATING EXPENDITURES	141,496	43,202	722,467
OPERATING CAPITAL OUTLAY	3,202	0	156,708
FIXED CAPITAL OUTLAY	18,519	0	977,000
INTERAGENCY EXPENDITURES	307	79,260	692,935
<b>TOTAL EXPENDITURES</b>	<b>449,523</b>	<b>1,536,310</b>	<b>6,664,699</b>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<b>(163,392)</b>	<b>(1,536,310)</b>	<b>0</b>

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**  
**STATEMENT OF ACTIVITY - REVENUE AND EXPENSE ROLLUP (UNAUDITED)**  
**FOR 12/31/2020**

	Y-T-D ACTUAL	ENCUMBRANCE	ANNUAL BUDGET
<b><u>District Special Revenue -</u></b>			
<b>REVENUES</b>			
DISTRICT REVENUES	0	0	0
LOCAL REVENUES	0	0	0
STATE REVENUES	0	0	0
FEDERAL REVENUES	0	0	0
FUND BALANCE UTILIZATION	40,060	0	5,319,470
<b>TOTAL REVENUES</b>	<b>40,060</b>	<b>0</b>	<b>5,319,470</b>
<b>EXPENDITURES</b>			
SALARIES AND BENEFITS	0	0	0
CONTRACTUAL SERVICES	24,795	1,325,960	2,250,000
OPERATING EXPENDITURES	0	0	30,000
OPERATING CAPITAL OUTLAY	15,265	0	0
FIXED CAPITAL OUTLAY	0	0	0
INTERAGENCY EXPENDITURES	0	907,548	3,039,470
<b>TOTAL EXPENDITURES</b>	<b>40,060</b>	<b>2,233,508</b>	<b>5,319,470</b>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<b>0</b>	<b>(2,233,508)</b>	<b>0</b>
<b><u>State Special Revenue -</u></b>			
<b>REVENUES</b>			
DISTRICT REVENUES	111,845	0	0
LOCAL REVENUES	0	0	0
STATE REVENUES	273,166	0	31,178,384
FEDERAL REVENUES	0	0	0
FUND BALANCE UTILIZATION	0	0	2,583,601
<b>TOTAL REVENUES</b>	<b>385,011</b>	<b>0</b>	<b>33,761,985</b>
<b>EXPENDITURES</b>			
SALARIES AND BENEFITS	135,612	0	724,985
CONTRACTUAL SERVICES	296,291	3,273,893	10,749,000
OPERATING EXPENDITURES	1,164	5,440	36,000
OPERATING CAPITAL OUTLAY	0	128,728	0
FIXED CAPITAL OUTLAY	0	0	4,100,000
INTERAGENCY EXPENDITURES	69,650	17,550,188	18,152,000
<b>TOTAL EXPENDITURES</b>	<b>502,717</b>	<b>20,958,249</b>	<b>33,761,985</b>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<b>(117,706) *</b>	<b>(20,958,249)</b>	<b>0</b>
			<i>* To be reimbursed by grants</i>
<b><u>Federal Special Revenue -</u></b>			
<b>REVENUES</b>			
DISTRICT REVENUES	0	0	75,000
LOCAL REVENUES	0	0	0
STATE REVENUES	0	0	0
FEDERAL REVENUES	167,415	0	3,616,000
FUND BALANCE UTILIZATION	0	0	0
<b>TOTAL REVENUES</b>	<b>167,415</b>	<b>0</b>	<b>3,691,000</b>
<b>EXPENDITURES</b>			
SALARIES AND BENEFITS	219	0	16,000
CONTRACTUAL SERVICES	289,966	1,759,157	3,651,000
OPERATING EXPENDITURES	0	0	6,000
OPERATING CAPITAL OUTLAY	0	0	0
FIXED CAPITAL OUTLAY	0	0	0
INTERAGENCY EXPENDITURES	0	0	18,000
<b>TOTAL EXPENDITURES</b>	<b>290,185</b>	<b>1,759,157</b>	<b>3,691,000</b>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<b>(122,770) *</b>	<b>(1,759,157)</b>	<b>0</b>
			<i>* To be reimbursed by grants</i>

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board

FROM: Tyler Jordan, Systems Administrator, Office of Information Technology

THRU: Steve Minnis, Deputy Executive Director, Business and Community Services

DATE: January 29, 2021

RE: Virtual Infrastructure Upgrade

**RECOMMENDATION**

Authorize the Executive Director to purchase three Dell R640 Servers and two Dell EMC Network Switches from VtechIO, for an amount not to exceed \$61,000.

**BACKGROUND**

Virtual infrastructure is a collection of software-defined components that make up an enterprise information technology (IT) environment running on physical servers functioning as hosts. Virtualized equipment allows resources (virtual machines) to be allocated quickly and alleviates the need to have physical servers for each application in the server room. This infrastructure is critical to our organization in that it houses the Finance Server, GIS Servers, Database Servers, and many other critical applications that District staff use daily.

The District currently has three Dell M630 blade servers (purchased in 2015) and two Dell 6224 network switches (purchased in 2011) that function as physical hosts. The current servers and switches have reached or are nearing the end of their serviceable lives (5+ years) and need to be replaced. The addition of the new equipment will also support a remote workforce if necessary, as well as being more energy efficient. The existing equipment was not capable of supporting a remote workforce, forcing the deployment of additional resources during the lockdown last spring.

The VtechIO quote includes purchasing three Dell R640 Servers and two Dell EMC Network Switches with a 5-year support plan. VtechIO professional services will be used for the installation and configuration of this equipment. The quote is issued under the competitively bid State of Florida contract (NASPO ValuePoint 17AHC C000000007982 WN08AGW TRP Seminole 26AHI C000000007806 53AHF).

Funding for this recommendation is included in the Fiscal Year 2020-2021 Final Budget under the following Computer Equipment account codes: 01-4-906-5-1500-16-00, 01-4-906-5-2700-16-00, 13-4-906-5-3700-16-00, 01-4-906-5-4500-16-00, and 01-4-906-5-6109-16-00.

JW/tm  
Attachment



2338 Immokalee Rd. #151  
 Naples, FL 34110  
 Phone: (239) 514-2888  
 Fax: (239) 236-2232  
[www.vTECHio.com](http://www.vTECHio.com)

# PROPOSAL

CAWQ18929

Jan 13, 2021

**Prepared For:** **Presented By:**

**Suwannee River WaterMgmt. District**  
 Tyler Jordan  
 9225 CR 49  
 Live Oak, FL 32060  
 United States

Alex Charwin  
 alex.charwin@vtechio.com  
 850-982-1665

**Phone** (386) 362-0435  
**Fax**

To accept this proposal, sign here and return:

\_\_\_\_\_

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

Customer Purchase Order Number: \_\_\_\_\_

**Here is the quote you requested.**

**Terms: Net 45 Days**

Description	Unit Price	Qty	Ext. Price
<p>■ <b>Dell EMC Switch S4128T-ON, 1U, 28 x 10Gbase-T, 2 x QSFP28, IO to PSU, 2 PSU, OS10</b></p> <p>OS10 Enterprise S4128T-ON            Dell EMC Networking S4100-ON Americas User Guide            Dell Hardware Limited Warranty 1 Year            ProSupport:Next Business Day Onsite Service After Problem Diagnosis, 1 Year            ProSupport:Next Business Day Onsite Service After Problem Diagnosis, 4 Years Extended            ProSupport: 7x24 HW/SW Technical Support and Assistance, 5 Years            Dell Limited Hardware Warranty Extended Year(s)            Thank you choosing Dell ProSupport. For tech support, visit <a href="http://www.dell.com/support">//www.dell.com/support</a> or call 1-800- 945-3355            Info 3rd Party Software Warranty provided by Vendor            On-Site Installation Declined            Dell Networking, Jumper Cord, 250V, 12A, 2 Meters, C13/C14, US            Dell Networking, Jumper Cord, 250V, 12A, 2 Meters, C13/C14, US            Dell Networking Cable, 100GbE QSFP28 to QSFP28, Passive Copper Direct Attach Cable, 0.5 Meter</p>	<b>\$7,070.06</b>	<b>2</b>	<b>\$14,140.12</b>
<p>■ <b>PowerEdge R640 Server</b></p> <p>PowerEdge R640 MLK Motherboard            No Trusted Platform Module            No Hard Drive, No Backplane chassis            PowerEdge R640 Shipping            PowerEdge R640 x8 Drive Shipping Material            PowerEdge R640 CE, CCC, BIS Marking            Intel Xeon Gold 5215 2.5G, 10C/20T, 10.4GT/s, 13.75M Cache, Turbo, HT (85W) DDR4-2666            Intel Xeon Gold 5215 2.5G, 10C/20T, 10.4GT/s, 13.75M Cache, Turbo, HT (85W) DDR4-2666            Additional Processor Selected            DIMM Blanks for System with 2 Processors</p>	<b>\$15,308.50</b>	<b>3</b>	<b>\$45,925.50</b>

Description	Unit Price	Qty	Ext. Price
<p>Standard 1U Heatsink</p> <p>Standard 1U Heatsink</p> <p>3200MT/s RDIMMs</p> <p>Performance Optimized</p> <p>Diskless Configuration (No RAID, No Controller)</p> <p>No Controller</p> <p>No Hard Drive</p> <p>BOSS controller card + with 2 M.2 Sticks 240G (RAID 1),LP</p> <p>No Operating System</p> <p>No Media Required</p> <p>iDRAC9,Enterprise</p> <p>iDRAC Group Manager, Enabled</p> <p>iDRAC,Legacy Password</p> <p>Riser Config 2, 3x16 LP</p> <p>Broadcom 57416 Dual Port 10GbE BASE-T &amp; 5720 Dual Port 1GbE BASE-T, rNDC</p> <p>No Internal Optical Drive for x4 and x8 HDD Chassis</p> <p>8 Standard Fans for R640</p> <p>Dual, Hot-plug, Redundant Power Supply (1+1), 750W</p> <p>LCD Bezel</p> <p>Dell EMC Luggage Tag</p> <p>Quick Sync 2 (At-the-box mgmt)</p> <p>Performance BIOS Settings</p> <p>UEFI BIOS Boot Mode with GPT Partition</p> <p>ReadyRails Sliding Rails With Cable Management Arm</p> <p>No Systems Documentation, No OpenManage DVD Kit</p> <p>Dell Hardware Limited Warranty Plus On-Site Service</p> <p>ProSupport: Next Business Day On-Site Service After Problem Diagnosis, 5 Years</p> <p>ProSupport: 7x24 HW/SW Technical Support and Assistance, 5 Years</p> <p>Thank you choosing Dell ProSupport. For tech support, visit <a href="http://www.dell.com/support">//www.dell.com/support</a> or call 1-800- 945-3355</p> <p>On-Site Installation Declined</p> <p>(8) 32GB RDIMM, 3200MT/s, Dual Rank</p> <p>Broadcom 57416 Dual Port 10GbE BASE-T Adapter, PCIe Low Profile</p> <p>NVIDIA® Tesla™ T4 16GB Passive, Single Slot, Low Profile GPU</p> <p>(2) C13 to C14, PDU Style, 12 AMP, 6.5 Feet (2m) Power Cord, North America</p> <p>NASPO ValuePoint 17AHC C000000007982 WN08AGW TRP Seminole 26AHI C000000007806 53AHF</p>			

Continued On Next Page ...

Description	Unit Price	Qty	Ext. Price
			<b>Subtotal</b>
Your investment in addition to the Grand Total:			\$60,065.62
<i>\$0.00 Billed Monthly</i>			<b>Tax</b>
<i>\$0.00 Billed Quarterly</i>			\$0.00
<i>\$0.00 Billed Annually</i>			<b>Shipping</b>
			\$0.00
			<b>Grand Total</b>
			<b>\$60,065.62</b>

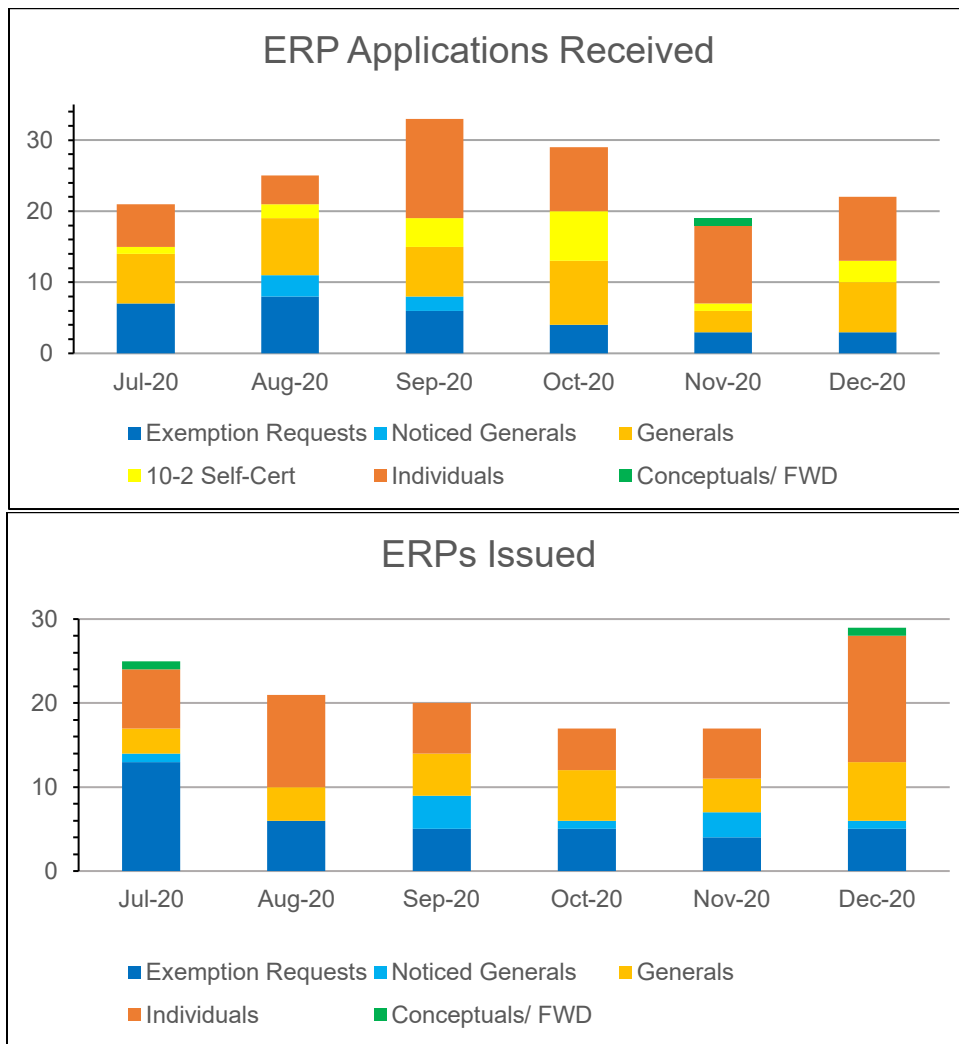
**Pricing, Taxes, and Additional Information**

All product, pricing, and other information is valid for U.S. customers and U.S. addresses only, and is based on the latest information available and may be subject to change. vTechio reserves the right to cancel quotes and orders arising from pricing or other errors. Sales tax on products shipped is based on your "Ship To" address. Please indicate any tax-exempt status on your PO, and email your exemption certificate to DJ.peterson@vtechio.com . Note: All tax quoted above is an estimate; final taxes will be listed on the invoice. If you have any questions regarding tax please send an e-mail to DJ.peterson@vtechio.com

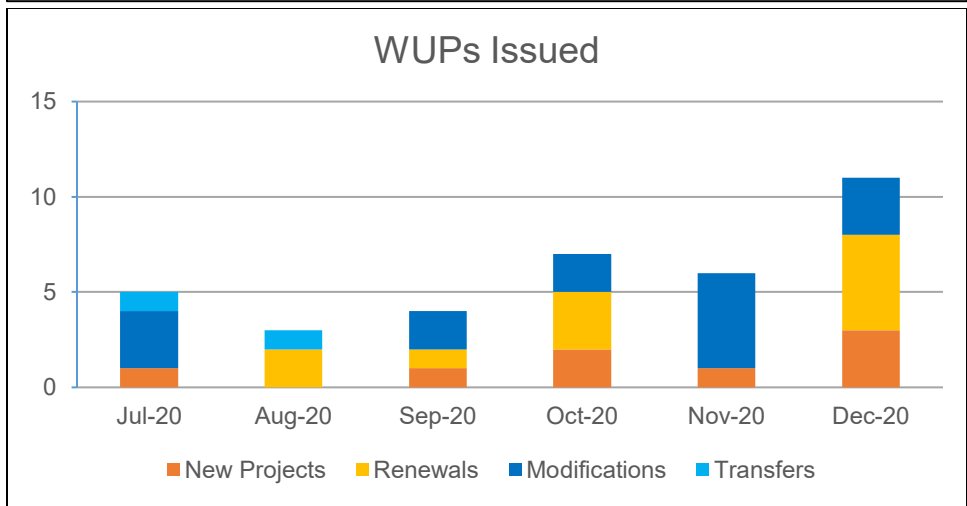
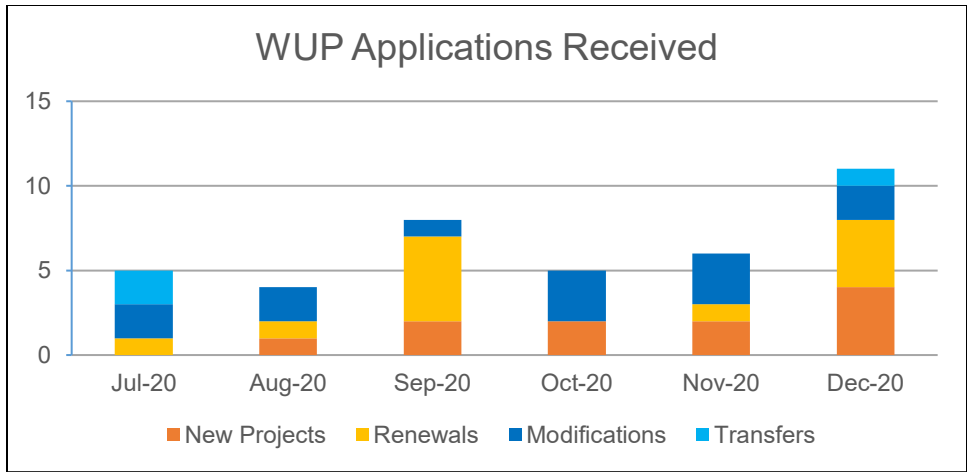
For certain products shipped to end-users in California, a State Environmental Fee will be applied to your invoice.\*\*\*A 3.5% convenience fee will be charge for credit card purchases\*\*\* By signing this quote you acknowledge having read and agree to be bound by such terms.

MEMORANDUM

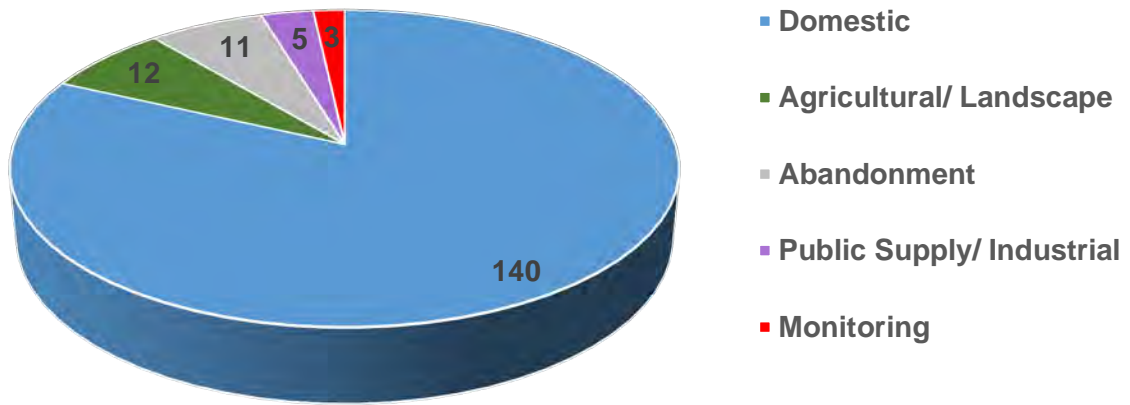
TO: Governing Board  
FROM: Warren Zwanka, Director, Division of Resource Management  
THRU: Steve Minnis, Deputy Executive Director, Business and Community Services  
DATE: January 29, 2021  
RE: Permitting Summary Report







Water Well Permits Issued December 2020



**40B-4.1020 Definitions**

GB Authorized Rulemaking	8/27/2020
Notice of Rule Development	9/25/2020
Public Workshop	n/a
Notice of Proposed Rule	11/16/2020
Notice of Rule Change	n/a
Mail to DOS	12/15/2020
<b>Effective Date</b>	<b>1/5/2021</b>

**40B-4.1040 Permits Required**

GB Authorized Rulemaking	8/27/2020
Notice of Rule Development	9/25/2020
Public Workshop	n/a
Notice of Proposed Rule	11/16/2020
Notice of Rule Change	n/a
Mail to DOS	12/15/2020
<b>Effective Date</b>	<b>1/5/2021</b>

**40B-4.1100 Duration of Permits**

GB Authorized Rulemaking	8/27/2020
Notice of Rule Development	9/25/2020
Public Workshop	n/a
Notice of Proposed Rule	11/16/2020
Notice of Rule Change	n/a
Mail to DOS	12/15/2020
<b>Effective Date</b>	<b>1/5/2021</b>

**40B-4.1110 Modification of Permits**

GB Authorized Rulemaking	8/27/2020
Notice of Rule Development	9/25/2020
Public Workshop	n/a
Notice of Proposed Rule	11/16/2020
Notice of Rule Change	12/7/2020
Mail to DOS	1/4/2021
<b>Effective Date</b>	<b>1/24/2021</b>

**40B-4.3000 Adopted Works of the District**

GB Authorized Rulemaking	8/27/2020
Notice of Rule Development	9/25/2020
Public Workshop	n/a
Notice of Proposed Rule	11/16/2020
Notice of Rule Change	12/7/2020
Mail to DOS	1/4/2021
<b>Effective Date</b>	<b>1/24/2021</b>

**40B-400.091 Statewide Stormwater Rules**

GB Authorized Rulemaking	12/8/2020
Notice of Rule Development	12/21/2020
Public Workshop	
Notice of Proposed Rule	
Notice of Rule Change	
Mail to DOS	
<b>Effective Date</b>	

**Compliance Agreements:** None to report



SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board

FROM: Leroy Marshall, Chief, Office of Engineering/ERP

THRU: Steve Minnis, Deputy Executive Director, Business and Community Services

DATE: January 29, 2021

RE: Variance Request for General Works of the District Permit Application WOD-029-237339-1, Cothron Residence, Dixie County

**RECOMMENDATION**

Approve a variance from section 40B-4.3030(13), Florida Administrative Code, for General Works of the District Permit WOD-029-237339-1 to Forrest Cothron; and formalize the Board's decision through the issuance of a Final Order executed by the Executive Director.

**BACKGROUND**

The District received an after-the-fact application and variance request from section 40B-4.3030(13), Florida Administrative Code, which states in part, *"No construction, additions or reconstruction shall occur in the front 75 feet of an area immediately adjacent to and including the normally recognized bank of a water, except for one deck per parcel located at the top of the bank no larger than 200 square feet and a boardwalk no wider than five feet to provide reasonable pedestrian access to water dependent structures such as docks."* A variance request pursuant to section 120.542, Florida Statutes, must demonstrate that the purpose of the underlying statute will be or has been achieved by other means; and that application of the rule would create a substantial hardship or would violate principles of fairness.

The applicant has provided documentation demonstrating unusual hardship exists in that there was a seawall with concrete on the property that predates the rule and that removing the existing seawall in its entirety or removing the seawall's concrete anchoring system would cause financial hardship to the owner and potentially cause adverse environmental impacts to the Suwannee River. The applicant also provided documentation demonstrating that a cap anchoring system supported by rebar and vertical piles was the preferred support system for the reconstructed seawall. The applicant demonstrated the purpose of the underlying statute will be met by deed-restricted preservation on the remaining natural portions of the bank (see exhibit A), and additional vegetation at nearby J.H. Anderson, Jr. Memorial Park. The total preservation and planting area is equivalent to the entire 75-foot setback area of the Cothron property (see exhibit B). Additionally, grandfathered structures/concrete and a dilapidated deck/set of stairs will be removed, further increasing the impact offset.

Denial of the variance request will require that, as part of the after-the-fact permit, the concrete anchoring system shall be removed from within the 75 foot setback, except for a 5-foot path to access one set of the stairs and a maximum of 5 feet of impervious along the seawall for a cap and access. Granting of the variance will allow the concrete cap to remain in the 75-foot setback as part of the after-the-fact permit. The District published a notice regarding the project in the Florida Administrative Register on September 14, 2020, and no objections have been received to date.

LM/tm  
Attachments

January 14, 2021  
Suwannee River  
Water Management District  
9225 CR 49  
Live Oak, FL 32060

**(a) Petition for variance from Ch 40B-4, Florida Administrative Code (F.A.C.)**

Subject: Works of the District (WOD) Application # WOD-029-237339-1 - Cothron Residence, Dixie County

**(b) Petitioner: Forrest Cothron**

250 893rd Ave.  
Branford, FL 32008  
352-562-6000  
[forrest@saltwaterbuilders.com](mailto:forrest@saltwaterbuilders.com)

**(c) Agent: Adam Collins**

Adam Collins Engineering, Inc.  
12558 Bass Road  
Live Oak, FL 32060  
386-320-7400  
[adam@collinseng.com](mailto:adam@collinseng.com)

**(d)** The applicable portion of the rule in which the variance is requested is 40B-4.3030(13).

**(e)** The citation to the statute the rule is implementing:

40B-4.3030(13), F.A.C., States, "No construction, additions or reconstruction shall occur in the front 75 feet of an area immediately adjacent to and including the normally recognized bank of a water, except for one deck per parcel located at the top of the bank no larger than 200 square feet and a boardwalk no wider than five feet to provide reasonable pedestrian access to water dependent structures such as docks."

**(f)** Type of variance requested:

The type of action requested is a permanent variance from rule 40B-4.3030(13), F.A.C. This will allow the seawall concrete tieback anchor at the top of bank to remain in place.

**(g)** Facts that demonstrate hardship:

The concrete pad at the top of bank is part of the anchoring system of the existing grandfathered seawalls. The concrete was capped with integrated steel piles to maintain the structural integrity of the entire seawall system. The chosen retrofit design of the existing seawall was the most viable option to prevent failure of the system. An analysis was performed to calculate the force to be resisted by the concrete anchor tieback. The force acting on the seawall is approx. 70,000 lbs. The combined resisting force of the

concrete and the steel piles integrated into the concrete is approx. 85,000 lbs. Therefore, the concrete must remain.

(h) The reason the variance or waiver requested would serve the purpose of the underlying statute:

The purpose of the underlying statute is to limit construction in the 75 ft setback. To meet the intent of the rule and mitigate the elements to remain, existing grandfathered elements will be removed from the 75 ft setback. The total footprint of elements for which a variance is sought totals +/- 1,817 sf of concrete. The total footprint of elements to be removed from the within the 75 ft setback is approximately 956 sf. Of this total, approximately 930 sf are structures, and 26 sf is concrete (See Exhibit A). Offsetting mitigation is proposed on District land at Rock Bluff Springs (See Exhibit B). The total area designated for new plantings at the springs is 10,430 sf. District staff shall determine the configuration and type of plantings in this area. Also, approx. 498 sf of natural vegetation shall be preserved from river erosion onsite. This area shall be deed restricted. Also, the preservation area shall have a 5 ft wide path excluded from the deed restriction for river access. The existing access steps and deck shall be removed from the preservation area (See Exhibit A). The total area of preserved bank and new plantings equates to 10,928 sf. This total combined with the removed grandfathered structures equates to 11,884 sf. Therefore, the Rock Bluff Springs plantings, onsite preservation area, and removed grandfathered elements in the 75 ft setback together exceed the elements to remain in the 75 ft setback by a factor of (6.5). The offsetting mitigation alone (onsite and offsite 10,928 sf) exceeds the total post construction setback (entire area within the 75 ft setback 10,473 sf). The grandfathered structure removals provide further mitigation to serve the underlying statute.

(i) Permanent waiver/variance requested.

It is our request that a permanent waiver or variance be granted for the following:

1. The 1,817 sf of concrete seawall anchoring system to remain per rule 40B-4.3030(13), F.A.C.

Thank you for your consideration.

Sincerely,



Adam Collins

**NON-GRAND-FATHERED AREAS IN 75 FT SETBACK TO REMAIN:**

 CONCRETE (CAPPED CONCRETE THAT IS PART OF SEAWALL ANCHORING SYSTEM)

**GRAND-FATHERED AREAS IN 75 FT SETBACK TO BE REMOVED:**

 CONCRETE = 26 SF

 STRUCTURES = 930 SF

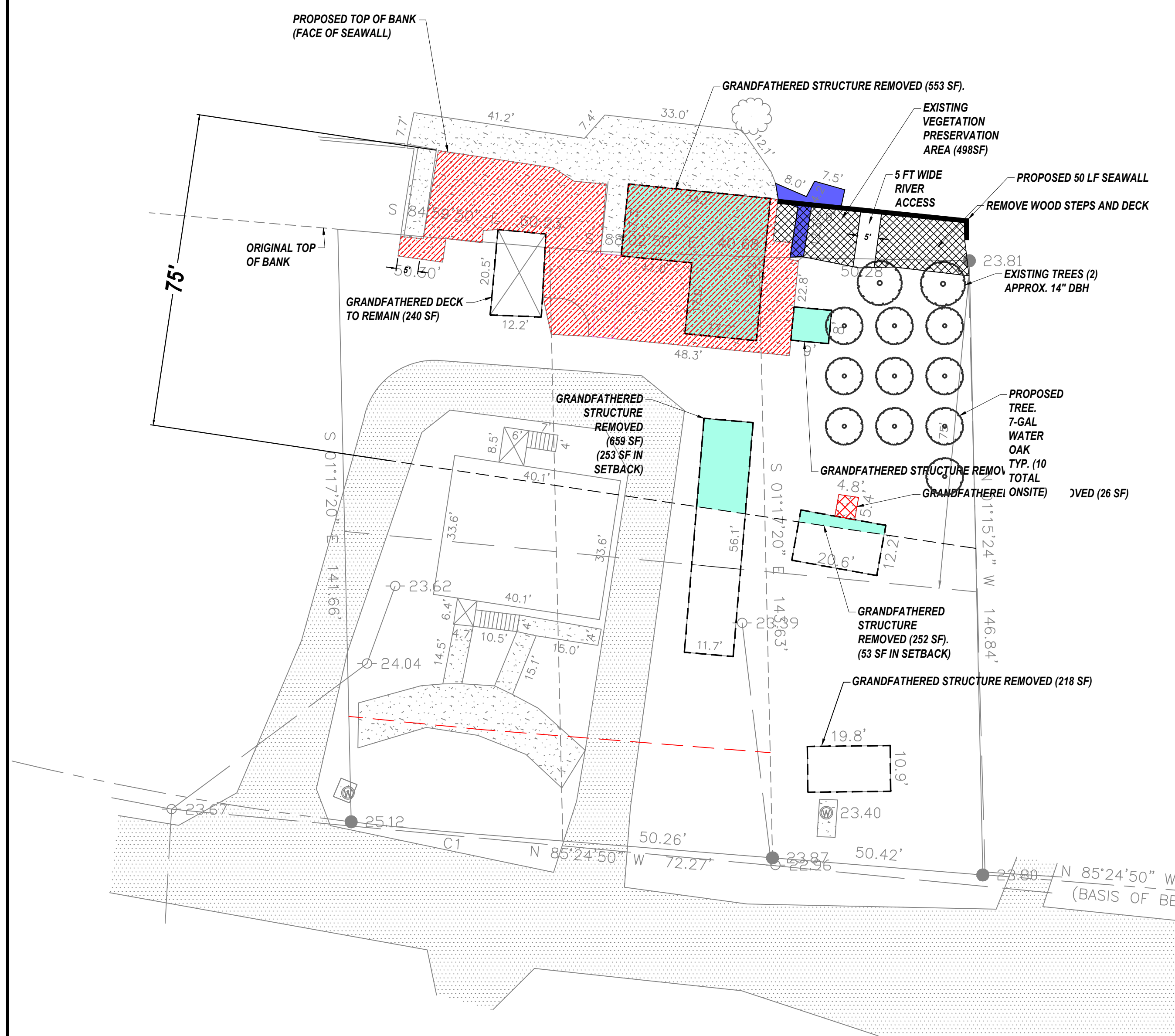
**MITIGATION AREAS:**

 PRESERVATION OF EXISTING VEGETATION WITH DEED RESTRICTION = 498 SF

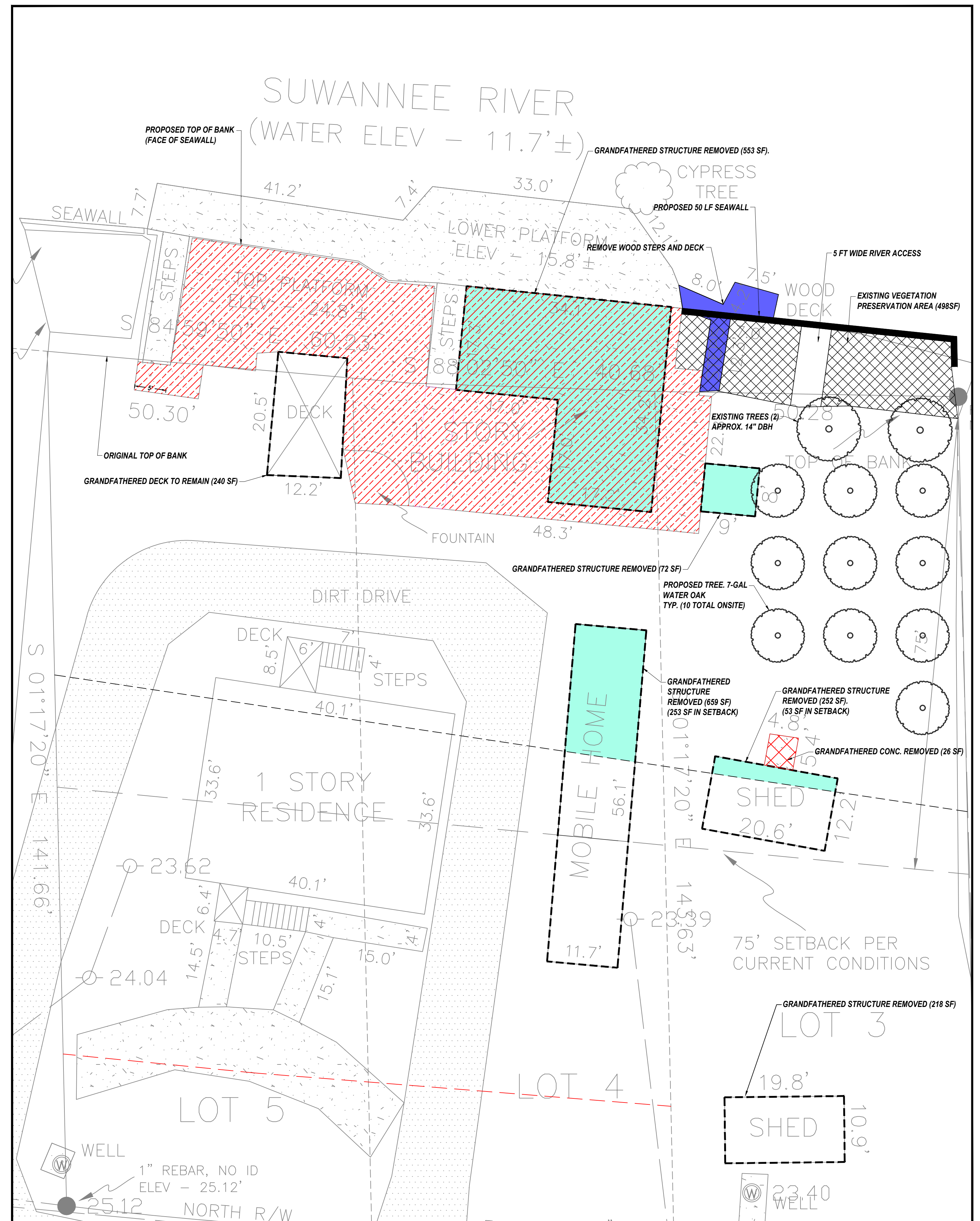
AREA IN THE POST CONSTRUCTION SETBACK = 10,473 SF

TOTAL PLANTINGS AND PRESERVATION AREA = 498 SF + 1,730 SF + 8,700 SF = 10,928 SF

TOTAL MITIGATION AREA PROVIDED (INCLUDING REMOVALS) = 11,884 SF

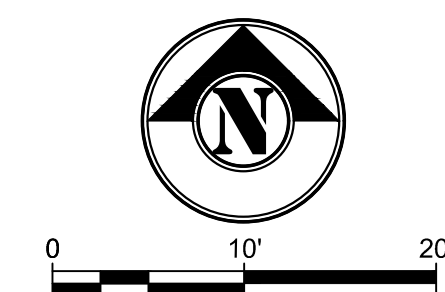


**OVERALL SITE PLAN**



**SITE PLAN**

DATE: PROJECT: 18031\_COTR\_COTR\_RESIDENCE\_SITING\_2021.01.14.DWG, ADAM, 11/10/2021 3:10 PM



NO.	DESCRIPTION	DATE

FORREST COTHRON  
250 NE 893RD AVE  
BRANFORD, FL 32008

**ADAM COLLINS**  
ENGINEERING INC.  
CA# 31728 - P. 386.320.7400 - WWW.COLLINSENG.COM

COTHRON RESIDENCE  
EXHIBIT A

PROJECT	COTHRON RESIDENCE
DATE	2021.01.14
DRAWN	JBP
DESIGNED	ATC
CHECKED	ATC
JOB No.	18031





Notice of Variances and Waivers

**WATER MANAGEMENT DISTRICTS**

**Suwannee River Water Management District**

RULE NO.:       RULE TITLE:

40B-4.3030       Conditions for Issuance of Works of the District Permits

NOTICE IS HEREBY GIVEN that on September 8, 2020, the Suwannee River Water Management District, received a petition for an emergency variance from Forrest Cothron, 250 NE 893<sup>rd</sup> Ave, Branford, FL. Pursuant to Section 120.542, F.S., Petitioner is seeking a variance from section 40B-4.3030(13), F.A.C., which provides that no construction, additions or reconstructions shall occur in the front 75-foot area immediately adjacent to and including to normally recognized bank of a water. The applicant is requesting to construct a structure. The project is located in Section 8, Township 8S, Range 14E of Dixie County, and has been assigned permit number ERP-001-237339-1, Cothron Residence.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Tilda Musgrove, Business Resource Specialist, Suwannee River Water Management District, 9225 CR 49, Live Oak, FL 32060, (386)362-1001 or 1(800)226-1066 in Florida only.

GENERAL WORKS OF THE DISTRICT PERMIT  
TECHNICAL STAFF REPORT  
15-January-2021  
APPLICATION NO. WOD-029-237339-1

**Applicant:** Forrest Cothron  
250 NE 893<sup>rd</sup> Avenue  
Branford, FL 32008  
(352) 562-6000

**Owner:** Forrest Cothron  
250 NE 893<sup>rd</sup> Avenue  
Branford, FL 32008  
(352) 562-6000

**Consultant:** Adam Collins, P.E.  
Adam Collins Engineering  
12558 Bass Rd  
Live Oak, FL 32060-6653  
(850) 888-2326

**Project Name:** Cothron Residence

**Project Acreage:** 0.475

**County:** Dixie

**Recommended Agency Action**

Approval of a variance from section 40B-4.3030(13), Florida Administrative Code (F.A.C.), for General Works of the District Permit WOD-029-237339-1 to Forrest Cothron; formalized through the issuance of a Final Order executed by the Executive Director.

**Project Review Staff**

Warren Zwanka, P.G., Division Director, Leroy Marshall, P.E., Chief Engineer,

**Project Location**

The project is located adjacent to the Suwannee River in Township 08 South, Range 14 East, Section 8 of Dixie County.

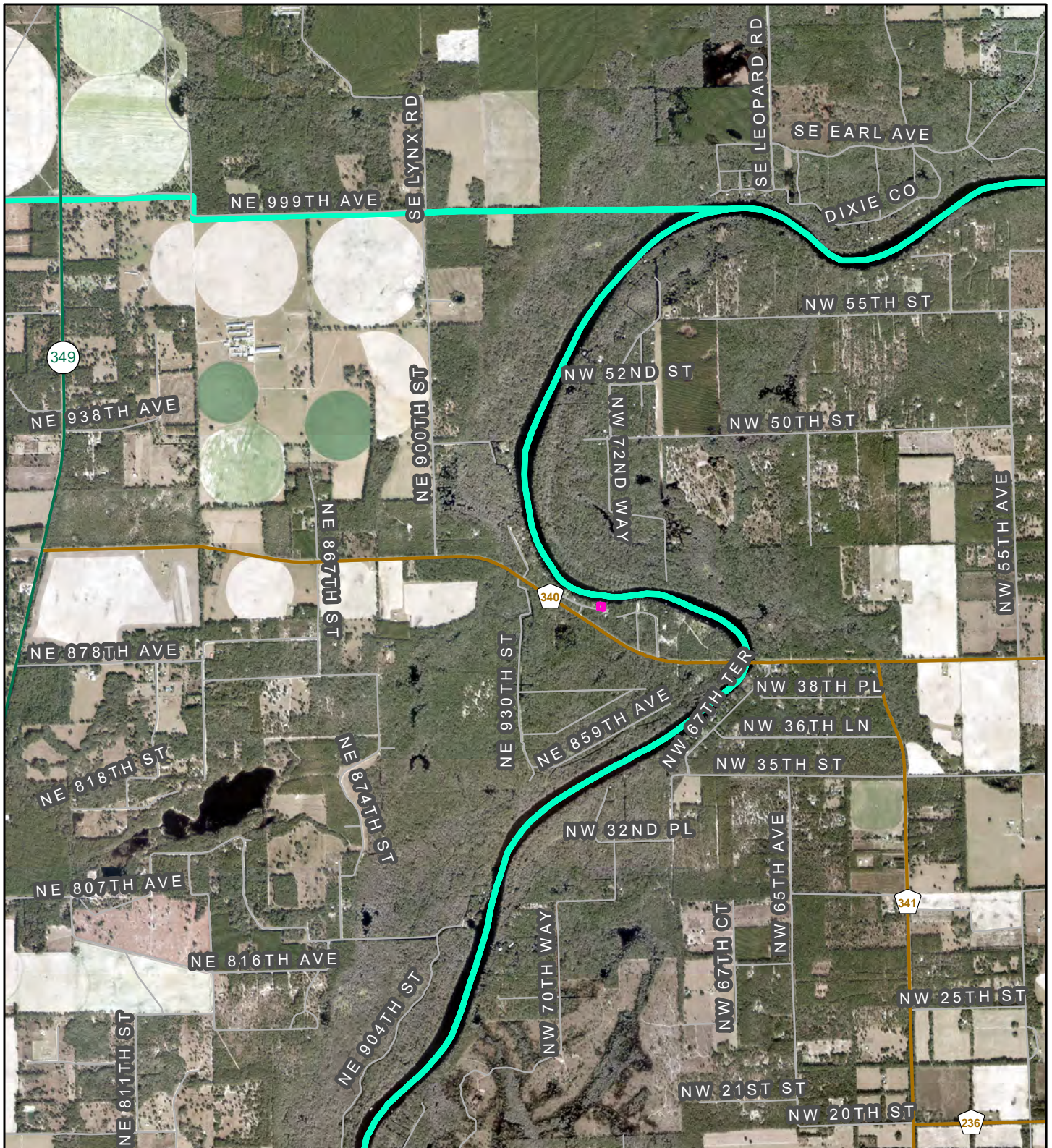
**Project Description**

The District received an after-the-fact application and variance request from section 40B-4.3030(13), F.A.C., which states in part, "*No construction, additions or reconstruction shall occur in the front 75 feet of an area immediately adjacent to and including the normally recognized*

*bank of a water, except for one deck per parcel located at the top of the bank no larger than 200 square feet and a boardwalk no wider than five feet to provide reasonable pedestrian access to water dependent structures such as docks.”* A variance requested pursuant to section 120.542, Florida Statutes, must demonstrate that the purpose of the underlying statute will be or has been achieved by other means; and that application of the rule would create a substantial hardship or would violate principles of fairness.

The applicant has provided documentation demonstrating unusual hardship exists in that there was a seawall with concrete on the property that predates the rule and that removing the existing seawall in its entirety or removing the seawall's concrete anchoring system would cause financial hardship to the owner and potentially cause adverse environmental impact to the river. The applicant also provided documentation demonstrating that a cap anchoring system supported by rebar and vertical piles was the preferred support system for the reconstructed seawall. The applicant demonstrated the purpose of the underlying statute will be met by deed-restricted preservation on the remaining natural portions of the bank (see exhibit A), and additional vegetation at nearby Rock Bluff Springs. The total preservation and planting area is equivalent to the entire 75-foot setback area of the Cothron property (see exhibit B). Additionally, grandfathered structures/ concrete and a dilapidated deck/ set of stairs will be removed further increasing the impact offset.

Denial of the variance request will require that, as part of the after-the-fact permit, the concrete anchoring system shall be removed from within the 75-foot setback, except for a 5-foot path to access one set of the stairs and a maximum of 5 feet of impervious along the seawall for a cap and access. Granting of the variance will allow the concrete cap to remain in the 75-foot setback as part of the after-the-fact permit. The District published a notice regarding the project in the Florida Administrative Register on September 14, 2020, and no objections have been received to date.

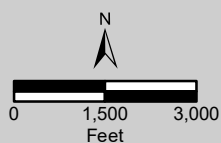


### Cothron Residence

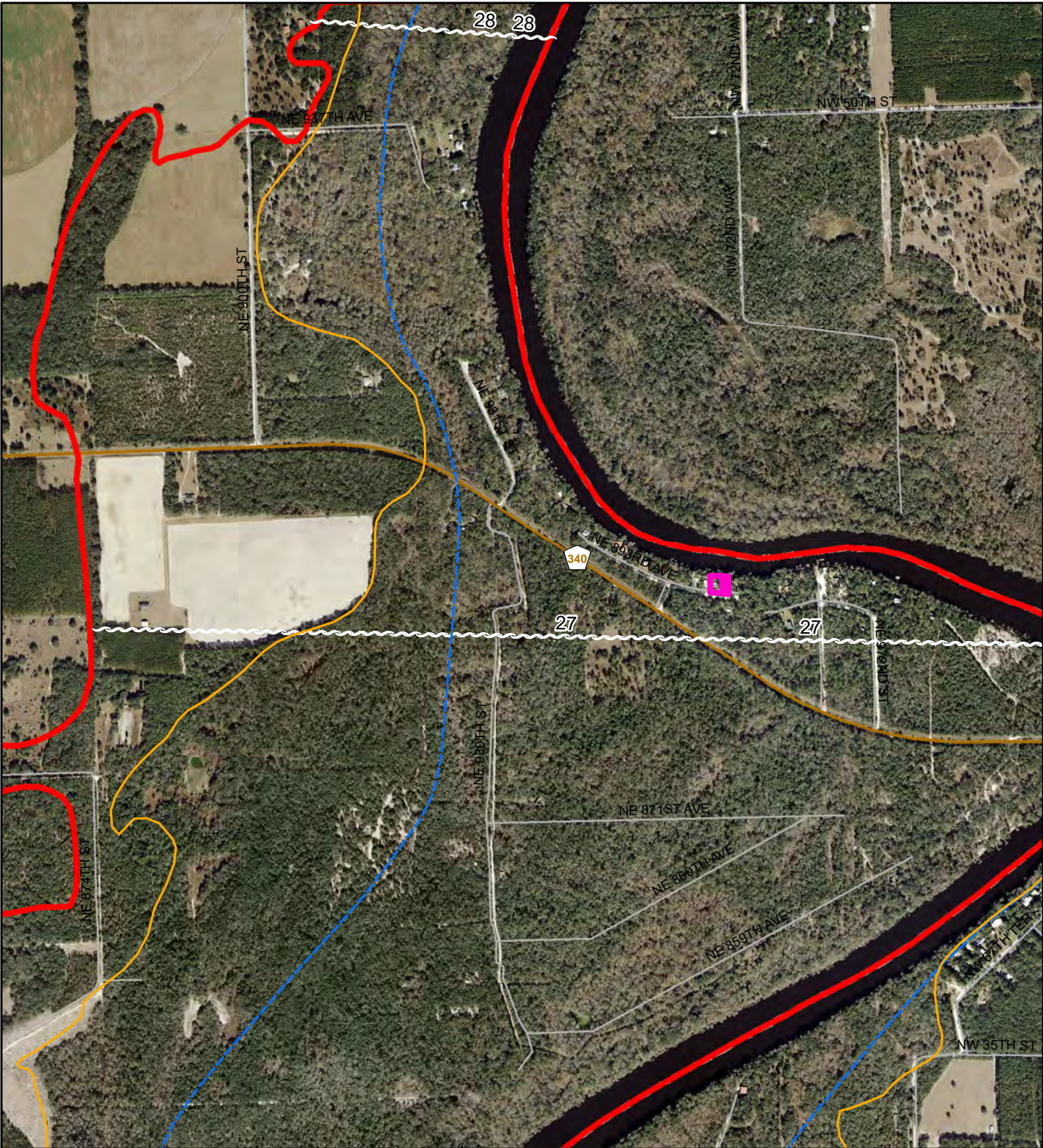
WOD-029-237339-1

October 2020

 Project Area



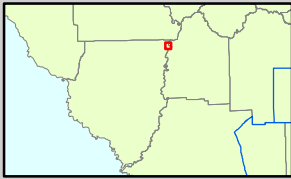
Note: This map was created by the Suwannee River Water Management District (SRWMD) to be used for planning purposes only. SRWMD shall not be held liable for any injury or damage caused by the use of data distributed as a public records request regardless of their use or application. SRWMD does not guarantee the accuracy, or suitability for any use of these data, and no warranty is expressed or implied. For more information please contact the SRWMD at 386-362-1001. Map Created on 7/21/2020



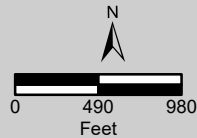
# Cothron Residence

WOD-029-237339-1

October 2020



- Floodplain10yr\_Suwannee\_24k
- Project Area
- Floodway\_Suwannee\_24k
- Flood\_BFE\_Dixie\_FEMA
- Zone AE



Note: This map was created by the Suwannee River Water Management District (SRWMD) to be used for planning purposes only. SRWMD shall not be held liable for any injury or damage caused by the use of data distributed as a public records request regardless of their use or application. SRWMD does not guarantee the accuracy, or suitability for any use of these data, and no warranty is expressed or implied. For more information please contact the SRWMD at 386-362-1001. Map Created on 7/21/2020

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board

FROM: Patrick Webster, Chief, Office of Agriculture and Environmental Projects

THRU: Steve Minnis, Deputy Executive Director, Business and Community Services

DATE: January 29, 2021

RE: Agreement with the Florida Department of Environmental Protection to Receive Water Quality Improvement Funds and to Enter into Agreements

**RECOMMENDATION**

Authorize the Executive Director to enter into an agreement with the Florida Department of Environmental Protection to receive funds and to enter into agreements with the appropriate entities to implement the projects.

**BACKGROUND**

On June 29, 2020, Governor DeSantis signed the “Bolder, Brighter, and Better Future” state budget, which includes an investment of \$25 million for grants and aids to local governments and non-state entities for water quality improvement projects relating to the St. John’s, Suwannee, and Apalachicola Rivers and Springs Coast Watershed.

The Florida Department of Environmental Protection (FDEP) has informed the District that it will receive \$4.0 million in grant funding for two projects. The District will enter into agreements with the selected cooperators upon notification by FDEP. The District will enter into an agreement with the Florida Department of Transportation (FDOT) and Columbia County on the I-75/SR 247 Quail Heights project. FDEP will contract directly with City of Lake City for the Lake City Public Access Reuse/Chlorine Contact Chamber Upgrades project.

The first project is the I-75/SR 247 Quail Heights project which the Governing Board approved entering into an agreement with FDOT for the acquisition of the Quail Heights parcel at the December, 2020 Governing Board Meeting. This project involves a partnership between the District, FDOT, and Columbia County. On September 10, 2020, the FDOT acquired fee interest in 40.83 acres +/- of real property located in Columbia County within Quail Heights. The FDOT portion of the project will serve as direct treatment for roadway improvements on SR 247 and I-75. The construction of the joint-use stormwater pond will treat and attenuate runoff from Cannon Creek. It will treat existing untreated runoff and provide a net benefit to Cannon Creek, a tributary of the Santa Fe River. Over 800 pounds of nitrogen are estimated to be removed each year by the project. The total project cost is estimated at \$9,664,300 with a match of \$6,503,195 from FDOT that includes \$968,195 for land acquisition and \$5,535,000 for construction, \$651,105 from the District for land acquisition, and an FDEP Grant request of \$2,510,000.

The second project is the Lake City Public Access Reuse/Chlorine Contact Chamber Upgrades. The City of Lake City’s public access reuse system is currently offline. The reuse system was designed with the chlorine contact chamber within the 1.5 million-gallon reclaimed water storage tank. However, the City’s Utility Department only runs one shift of workers per day and cannot

run the reuse system without staff present. When the reuse system is offline for 16 hours or more the chlorine residuals drop too low. Due to the system's specific design, the entire storage tank must be emptied and refilled to re-chlorinate the reclaimed water. This process is time consuming and results in reclaimed water being available for a limited period each day, making it unusable by the City's primary reuse customer, Tice Farms. This project proposes to move the chlorine contact chamber from within the storage tank to a free-standing unit, allowing for recirculation and quicker re-chlorination of reclaimed water to provide consistent availability to the City's customers. The City will be able to produce up to 1.5 MGD of public access reuse water. The total project cost is estimated at \$1,086,340 with a local match of \$86,340 and an FDEP grant request of \$1,000,000.

Funding for these projects is included in the Fiscal Year 2020-2021 Final Budget.

PW/tm

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board  
FROM: Bill McKinstry, Chief, Office of Land Management  
THRU: Tom Mirti, Deputy Executive Director, Water and Land Resources  
DATE: January 29, 2021  
RE: District Land Management and Twin Rivers State Forest Activity Summary

**BACKGROUND**

The repairs to the LA Bennett Grade Bridge over the Steinhatchee River in Lafayette County are complete. The bridge is now open for public use.

District contractor completed hydrologic repairs on the Steinhatchee Springs Tract.

District contractors have completed all pine reforestation projects for Fiscal Year 2020-2021.

District contractors began hydrologic repairs on the Lamont Tract.

District contractors began road repairs on the Bay Creek Tract.

District contractors began a timber inventory project on the Gar Pond Tract.

District contractors completed a road mowing project on the Sandlin Bay Tract for a planned timber harvest.

District staff completed a timber harvest plan for the Newberry Wellfield.

District staff continues to treat invasive exotic plants on the Lukens Tract.

The harvesting operation on the Twin Rivers State Forest (TRSF) 88.6-acre Westwood West #4 timber sale was completed.

The harvesting operation on the TRSF 176-acre Ellaville Tract #19 timber sale commenced.

The Florida Forest Service established 18 miles of firebreaks in preparation for dormant season prescribed burning on the TRSF.

Boundary maintenance on the Black Tract is nearing completion.

The attached report summarizes the status of current District and TRSF activities for the preceding month.



**Conservation Easement Monitoring:** None during the reporting period.

**Vegetation Management Projects:** During the reporting period, 20.6 miles of ditch mowing was conducted on the Sandlin Bay Tract. Vegetation management work is being conducted for fuel reduction, natural community restoration, and wildfire mitigation purposes.

FY 2021 Activity Table – Vegetation Management (10/01/2020 – 01/13/2021)

ACTIVITY	ACRES		MILES	
	Planned	Complete	Planned	Complete
Herbicide	300	79	0	0
Roller Chop Uplands	248	0	0	0
Roller Chop (Mallory Swamp)	1000	0	0	0
Woods Mow	2000	21	0	0
Ditch Mow	0	0	25	20.6

**Invasive Plant Monitoring Program:** During the reporting period, 17 additional plant infestations were monitored or treated.

FY 2021 Activity Table – Invasive Plant Treatments (10/01/2020 – 01/13/2021)

ACTIVITY	INFESTATIONS	
	Planned	Complete
Invasive Plant	153	58

**Rare Plant Monitoring Program:** No additional rare plant occurrences were monitored during the reporting period.

FY 2021 Activity Table – Rare Plant Monitoring (10/01/2020 – 01/13/2021)

ACTIVITY	OCCURRENCES	
	Planned	Complete
Rare Plant Species Monitoring	140	0

**Prescribed Fire Program:**

- Contractors conducting prescribed burns on District lands include B&B Dugger (B&B), Schmidt Reforestation Services (SRS), and Wildlands Services (WS). Also, included in this report are the acres the Florida Forest Service (FFS) burns on TRSF. When available, the FFS will provide a crew to burn additional acres on both District tracts and TRSF.
- The following table provides information on the District's Prescribed Burn Program through the reporting period. During this period, no additional acres were burned.

FY 2021 Activity Table Prescribed Fire Summary Table (10/1/2020 – 01/13/2021)

	<b>2021 TARGET ACRES</b>	<b>ACRES COMPLETED</b>
SRWMD	7000	862.2
FFS TRSF	2000	40
TOTAL	9000	902.2

FY 2021 Activity Table - Prescribed Fire (10/01/2020 – 01/13/2021)

<b>TRACT</b>	<b>COUNTY</b>	<b>B&amp;B</b>	<b>WS</b>	<b>SRS</b>	<b>FFS COOP</b>	<b>FFS TRSF</b>	<b>TOTAL SRWMD ACRES</b>	<b>TOTAL TRSF ACRES</b>	<b>TOTAL WILDFIRE ACRES</b>
Cuba Bay	Jefferson	114.5					114.5		
Cabbage Creek	Taylor	336.8					336.8		
Jones Mill Creek	Jefferson	410.9					410.9		
Ellaville	Madison					40.0			
Sub Total for Period	0	862.2	0	0		0	862.2	40.0	0
Previous Acres Burned	0	0	0	0		0	0	0	0
Total Acres	0	862.2	0	0		0	862.2	40.0	0

**Timber Sales:**

## Activity Table – Open and Recently Completed Timber Sales

<b>TRACT</b>	<b>CONTRACT</b>	<b>ACRES</b>	<b>TONS HARVESTED</b>	<b>REVENUE</b>	<b>STATUS</b>	<b>CONTRACT END DATE</b>
Wolf Creek #1	19/20-011	72			Inactive	4/2//2021
Cuba Bay	19/20-129	315			Inactive	3/4/2021
Steinhatchee Springs #19	19/20-139	330			Inactive	3/13/2021
Steinhatchee Springs #20	19/20-145	208			Inactive	04/24/2021
Steinhatchee Springs #21	19/20-146	366			Inactive	04/24/2021
Ellaville #19	20/21-009	176		\$300,507.17	Active	10/14/2021
Ellaville #20	20/21-013	276			Inactive	10/26/2021
Westwood West #4	20/21-010	89		\$133,107.77	Complete	10/14/2021
Nature Coast Wellfield #2	20/21-011	110			Inactive	10/26/2021
Seven Bridges #1	20/21-012	224			Inactive	10/26/2021
Sandlin Bay #6		192			Contract Pending	
Sandlin Bay #7		219			Contract Pending	
Sandlin Bay #8		233			Contract Pending	

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board

FROM: Darlene Velez, Chief, Office of Water Resources

THRU: Tom Mirti, Deputy Executive Director, Water and Land Resources

DATE: January 29, 2021

RE: Agricultural Water Use Monitoring Report

**BACKGROUND**

In September 2012, the District began a program of water use monitoring for agricultural water use reporting on wells of 8" diameter or greater. As of January 11, 2021, the District has permitted 1,786 (255.4 MGD) irrigation wells which include a water use monitoring condition, of which 1,423 (217.5 MGD) wells are active, i.e., the wells have been drilled already. The District is monitoring 1,393 (213.3 MGD) of the 1,423 active wells. The remaining 30 active wells not yet monitored are scheduled for site visits to determine the type of monitoring that will be implemented.

Where possible, agricultural water use is estimated using monthly electric power consumption records provided by the electrical power provider. Estimation by power use is the most cost-effective method of water use reporting. To date, the farmer agreements authorizing the District to receive power usage reports directly from the cooperatives are in effect on 690 (132.1 MGD) monitoring points.

Not all withdrawal points are suitable for estimation using power consumption. Diesel-powered pumps and complex interconnected irrigation systems still require direct methods of monitoring. The District employs telemetry to conduct water use monitoring on diesel-power systems. There are currently 274 (49.2 MGD) telemetry systems installed by the District for this purpose.

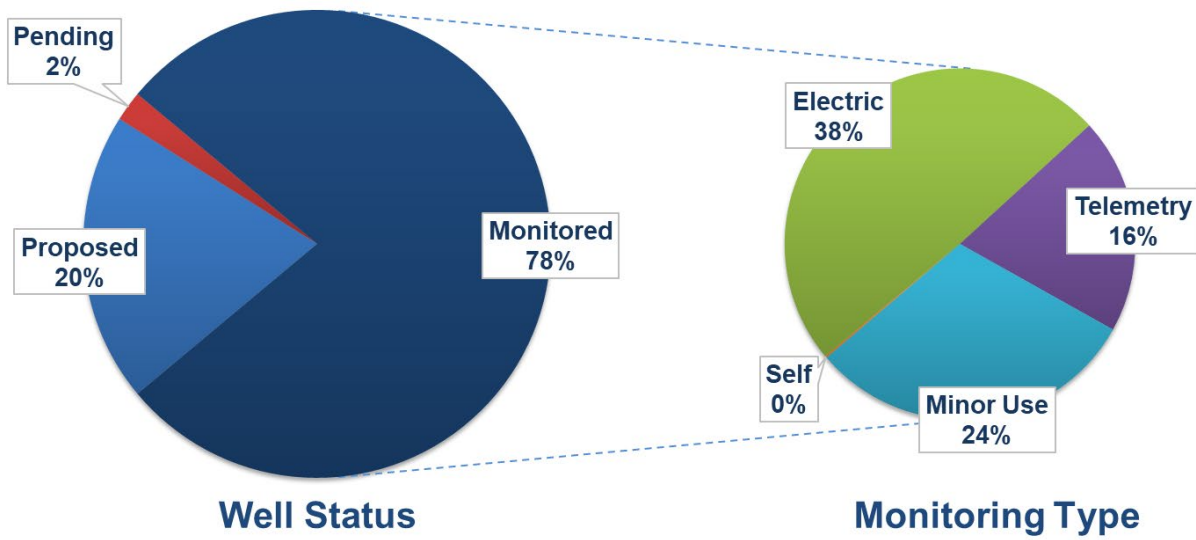
Some withdrawal points have very limited use (< 0.05 MGD each) and are monitored for status changes by individual site visits. There are currently 426 (31.8 MGD) limited use monitoring points in the District. Some users monitor their own water use and report that data to the District. There are currently 2 (0.3 MGD) self-monitored points.

Since April 2017, the District has consistently had over 94% of active wells and permitted allocation being monitored. To date, the District is monitoring approximately 97.9% of existing active wells (98.1% of allocation) with water use permit monitoring conditions.

The attached figure shows the current well status and monitoring type for all wells with water use monitoring conditions (Figure 1).

Figure 1: Graph on the left shows the current status of all permitted wells with a water use monitoring condition. The graph on the right shows the monitoring type for all currently monitored wells.

### Agricultural Water Use Stations with Monitoring Conditions



DSV/pf

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board

FROM: Sean King, Chief, Office of Minimum Flows and Minimum Water Levels

THRU: Tom Mirti, Deputy Executive Director, Water and Land Resources

DATE: January 29, 2021

RE: Updates to the Hydrologic Modeling Reports and Develop Status Assessment Technical Memos for Lakes Alto, Hampton, and Santa Fe

**RECOMMENDATION**

Authorize the Executive Director to approve Task Work Assignment 19/20-061.007 with Environmental Consulting and Technology, Inc., for technical services to update the hydrologic modeling reports developed in 2017 for Alto, Hampton, and Santa Fe lakes and to develop status assessment technical memos for the minimum flows and minimum water levels for an amount not to exceed \$83,832.00.

**BACKGROUND**

Environmental Consulting and Technology, Inc. (ECT) developed a Storm Water Management Model (SWMM) and report for Lake Hampton as part of Task Work Assignment (TWA) 14/15-050.04. ECT also developed a SWMM model for Alto and Santa Fe lakes as part of District TWA 14/15-050.06. These hydrologic modeling reports are companion reports to the minimum flows and minimum water levels (MFL) reports. The models were peer-reviewed.

On January 12, 2021, the Governing Board approved TWA 19/20-061.003, 19/20-061.004, and 19/20-061.005 to revise the MFL technical reports for Alto, Hampton and Santa Fe lakes. These MFL reports describe the ecological data collection efforts and water resource value assessments used to develop MFL criteria for each lake. This memo authorizes hydrologic modeling analyses previously described in separate reports which also need to be revised. Hydrologic modeling is necessary to evaluate the effects of groundwater drawdowns on lake levels and to determine whether the MFLs are being met.

Development of the North Florida Southeast Georgia (NFSEG) groundwater model allowed for a more robust MFL analysis using NFSEG model results. This TWA is for ECT to update the 2017 model reports to incorporate NFSEG model results, and to develop separate status assessment technical memos for the Alto, Hampton, and Santa Fe lakes.

Funding for this project is included in the Fiscal Year 2020-2021 Final Budget under code 20-2586-1-1102-18-00 and will be assigned to the Lake Hampton MFL code 20-2-586-1-1102-08, Lake Santa Fe MFL code 20-2-586-1-1102-09, and the Lake Alto MFL code 20-2-586-1-1102-06.

SK/pf

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board  
FROM: Hugh Thomas, Executive Director  
DATE: December 29, 2020  
RE: District's Weekly Activity Reports

Attached are the weekly District activity reports.

Please feel free to contact staff prior to the Governing Board meeting if you would like further information.

HT/rl  
Attachments



# SUWANNEE RIVER

## WATER MANAGEMENT DISTRICT

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### WEEKLY ACTIVITY REPORT TO GOVERNING BOARD FOR December 20 – 26, 2020

#### Executive / Management

- Hugh Thomas met with newly appointed Board Member Larry Thompson.
- Hugh Thomas performed a site visit to Bluebird Landing in Ft. White.

#### Legislative and Community Affairs

- Steve Minnis and Tim Alexander met with Lake City Council Member Todd Sampson to discuss water supply issues.

#### Administration

- No reporting activity.

#### Finance

- No reporting activity.

#### Land Management

- District contractors completed the timber harvest at Twin Rivers State Forest at the Westwood West Tract in Madison County.
- District staff completed a timber harvest plan for the Newberry Wellfield.
- District contractors completed tree planting at the Lake City Wellfield and Santa Fe River Ranch tracts. Tree planting is ongoing at the Troy Springs Addition Tract.
- District contractors began the winter prescribed burn season.
- Plans have been completed and Lafayette County has begun repairing the LA Bennett Bridge over the Steinhatchee River.
- Hydrologic repairs are on hold for the Steinhatchee Springs Tract due to wet conditions.

#### Resource Management

- No reporting activity.

#### Water Resources

- No reporting activity.

#### Minimum Flows and Minimum Water Levels

- No activities to report

#### Water Supply

- No reporting activity.

#### Hydrological Data

- No reporting activity.

#### Agriculture and Environmental Projects

- Steve Minnis, Pat Webster and Tim Alexander met with consultants for Dixie County regarding the Cross City Flood Management Project.
- Pat Webster and Libby Schmidt attended a virtual meeting to discuss the Santa Fe Springs Conservation Easement.
- Bob Heeke performed a site visit to the Mallory Swamp Project in Lafayette County.





# SUWANNEE RIVER

## WATER MANAGEMENT DISTRICT

- Pat Webster performed site maintenance at the Edwards Bottomlands Project in Bradford County.

### Information Technology and GIS

- No reporting activity.

### Communications

- Weekly Top Performing Post

**Suwannee River Water Management District** is at Suwannee River State Park.  
Published by Lindsey Garland on December 24 at 11:38 AM · Suwannee

We hope everyone has a fun and safe holiday season! We encourage you to take advantage of the great outdoors through the holidays by taking a hike at one of the many District lands or state parks!

**Performance for Your Post**

<b>492</b> People Reached		
<b>31</b> Reactions, Comments & Shares		
<b>20</b> Likes	<b>19</b> On Post	<b>1</b> On Shares
<b>4</b> Love	<b>4</b> On Post	<b>0</b> On Shares
<b>6</b> Comments	<b>6</b> On Post	<b>0</b> On Shares
<b>1</b> Shares	<b>1</b> On Post	<b>0</b> On Shares
<b>23</b> Post Clicks		
<b>2</b> Photo Views	<b>0</b> Link Clicks	<b>21</b> Other Clicks

**NEGATIVE FEEDBACK**

<b>2</b> Hide Post	<b>0</b> Hide All Posts
<b>0</b> Report as Spam	<b>0</b> Unlike Page

Reported stats may be delayed from what appears on posts.

Get More Likes, Comments and Shares. When you boost this post, you'll show it to more people.

492 People Reached | 54 Engagements | [Boost Post](#)

Rayne Russell, Amy Blakely and 21 others | 5 Comments | 1 Share

Like | Comment | Share

### Announcements for the week of January 3 – 9, 2021

- No announcements.



# SUWANNEE RIVER

## WATER MANAGEMENT DISTRICT

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### WEEKLY ACTIVITY REPORT TO GOVERNING BOARD FOR DEC. 27, 2020 – JAN. 2, 2021

#### **Executive / Management**

- No reporting activity.

#### **Legislative and Community Affairs**

- No reporting activity.

#### **Administration**

- No reporting activity.

#### **Finance**

- No reporting activity.

#### **Land Management**

- District contractors harvested timber at Twin Rivers State Forest on the Ellaville Tract in Madison County.
- District contractors completed all tree planting for FY 2021.
- The repairs to the L.A. Bennett Bridge over the Steinhatchee River in Lafayette County are completed, and the bridge is now open for public use.
- District contractors began hydrologic repairs on the Lamont Tract.
- District contractors began road repairs on the Bay Creek Tract.

#### **Resource Management**

- No reporting activity.

#### **Water Resources**

- No reporting activity.

#### **Minimum Flows and Minimum Water Levels**

- No reporting activity.

#### **Water Supply**

- No reporting activity.

#### **Hydrological Data**

- No reporting activity.

#### **Agriculture and Environmental Projects**

- Bob Heeke performed a site visit to Mallory Swamp in Lafayette County

#### **Information Technology and GIS**

- Paul Buchanan and Andrew Neel met with Hamilton County's building inspector to discuss maps and information regarding updated FEMA flood hazard statuses in the area.



# SUWANNEE RIVER

## WATER MANAGEMENT DISTRICT

### Communications

- Weekly Top Performing Post

Post Details

Performance for Your Post

303 People Reached		
2 Likes, Comments & Shares		
2 Likes	2 On Post	0 On Share
0 Comments	0 On Post	0 On Share
0 Spreads	0 On Post	0 On Share
3 Post Clicks		
1 Photo View	2 Link Clicks	0 Other Clicks
NEGATIVE FEEDBACK		
0 Hate Post	0 Hate All Posts	
0 Report to Spam	0 Unlike Page	

Required stats may be delayed from what appears on posts.

### Announcements for the week of January 10 – 16, 2021

- The District will hold its monthly Governing Board Meeting and Workshop on Tuesday, January 12, 2021 at 9:00 a.m. The meeting will be accessible online via webinar technology, and open to the public with limited seating capacity.



# SUWANNEE RIVER

## WATER MANAGEMENT DISTRICT

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### WEEKLY ACTIVITY REPORT TO GOVERNING BOARD FOR JANUARY 3 – 9, 2021

#### Executive / Management

- Hugh Thomas and Matt Cantrell performed a site visit to Bell High School in Gilchrist County to discuss the school's construction of livestock facilities and possible projects.
- Hugh Thomas and Tim Alexander attended the Gilchrist County Legislative Delegation Meeting in Trenton.
- Hugh Thomas, with Tim Alexander presenting, attended the Taylor County Legislative Delegation Meeting in Perry.

#### Legislative and Community Affairs

- Ben Glass, with Tim Alexander attending, presented to the Madison County Legislative Delegation Meeting.

#### Administration

- No reporting activity.

#### Finance

- No reporting activity.

#### Land Management

- District contractors continued timber harvesting at Twin Rivers State Forest on the Ellaville Tract in Madison County.
- Ryan Sims submitted a grant proposal for longleaf pine restoration to Alachua Conservation Trust.
- District contractors continued hydrologic repairs on the Lamont Tract.
- District contractors continued road repairs on the Bay Creek Tract.

#### Resource Management

- Chrissy Carr and Warren Zwanka virtually met with Columbia County officials to discuss water resource development projects related to the Mega Industrial Park.

#### Water Resources

- No reporting activity.

#### Minimum Flows and Minimum Water Levels

- No reporting activity.

#### Water Supply

- No reporting activity.

#### Hydrological Data

- No reporting activity.

#### Agriculture and Environmental Projects

- Bob Heeke performed a site visit to inspect the Mallory Swamp Project in Lafayette County.
- Pat Webster performed routine maintenance to the Edwards Bottomlands Project in Bradford County.



# SUWANNEE RIVER

## WATER MANAGEMENT DISTRICT

- Kris Eskelin attended the Gainesville City Commission Meeting discussing the Groundwater Recharge Wetland.
- Kris Eskelin attended the monthly construction meeting for the High Springs Gravity Sewer Extension Phase A2 Project.
- Patrick Webster and Dave Christian met with Madison County officials to discuss the Madison Blue Wells Project status.
- Dave Christian visited Madison County to search for the Burnette Well.

### Information Technology and GIS

- Paul Buchanan provided LIDAR DEM data of the Lafayette Blue Springs area to the Howard T. Odum Florida Springs Institute in High Springs.
- Andrew Neel provided the most recent District property ownership GIS data layer to the University of Florida GeoPlan Center in Gainesville.
- Andrew Neel assisted the Florida Fish and Wildlife Research Institute’s Freshwater Fisheries Field Office in Gainesville with GIS information about the USGS National Hydrography dataset.

### Communications

- Weekly Top Performing Post

**Suwannee River Water Management District**  
Published by Lindsey Garland (PI) 5d

The LA Bennett Grade Bridge at the Steinhatchee Springs Tract is now open!  
For information about the Steinhatchee Springs Tract, visit our website - <https://bit.ly/3npxcQ3>

**Performance for Your Post**

- 3,019 People Reached
- 79 Reactions, Comments & Shares
- 58 Likes (16 On Post, 42 On Shares)
- 4 Love (3 On Post, 1 On Shares)
- 5 Comments (3 On Post, 2 On Shares)
- 12 Shares (12 On Post, 0 On Shares)
- 123 Post Clicks
- 8 Photo Views (78 Link Clicks, 41 Other Clicks)

**NEGATIVE FEEDBACK**

- 1 Hide Post (0 Hide All Posts)
- 0 Report as Spam (0 Unfile Page)

Reported stats may be delayed from what appears on posts

**Get More Likes, Comments and Shares**  
When you boost this post, you'll show it to more people.

3,019 People Reached | 202 Engagements | [Boost Post](#)

Tom Christenbury, Dave Kinnaman and 16 others | 2 Comments | 12 Shares

Like | Comment | Share

### Announcements for the week of January 17 – 23, 2021

- District offices will be closed on Monday, January 18, 2021 in observance of Martin Luther King Jr. Day. District offices will resume normal business hours on Tuesday, January 19, 2021.



# SUWANNEE RIVER

## WATER MANAGEMENT DISTRICT

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### WEEKLY ACTIVITY REPORT TO GOVERNING BOARD FOR JANUARY 10 – 16, 2021

#### Executive / Management

- Hugh Thomas and Libby Schmidt attended the Florida Peanut Federation meeting in Lake City. The meeting included a discussion led by FDACS about the impacts of the Senate Bill 712.

#### Legislative and Community Affairs

- Ben Glass virtually attended Interim Committee Week 1 of the Florida Legislature.
- Steve Minnis and Tim Alexander met with representatives from the town of Mayo regarding the District-owned Mayo sprayfield property and water resource partnership opportunities.

#### Administration

- No reporting activity.

#### Finance

- No reporting activity.

#### Land Management

- District contractors continued timber harvesting at Twin Rivers State Forest on the Ellaville Tract in Madison County.
- District contractors continued hydrologic repairs on the Lamont Tract.
- District contractors continued road repairs on the Bay Creek Tract.

#### Resource Management

- No reporting activities.

#### Water Resources

- No reporting activities.

#### Minimum Flows and Minimum Water Levels

- Sean King, Sky Notestein and Louis Mantini participated in a research effort led by the University of Florida to tag fish, such as common snook, and assess use of springs as warm water habitats in the Lower Suwannee River.

#### Water Supply

- Water Supply staff met with SJRWMD to support implementation of regional modeling and development of the upcoming North Florida Regional Water Supply Plan.
- Emily Ryan virtually attended the 2021 American Meteorological Society Annual Meeting which discussed topics related to soil moisture, evapotranspiration, climate change, sea level rise and hydrology.

#### Hydrological Data

- No reporting activity.

#### Agriculture and Environmental Projects

- Bob Heeke and David Christian performed a site visit and inspection of the Mallory Swamp Project in Lafayette County.



# SUWANNEE RIVER

## WATER MANAGEMENT DISTRICT

- Bob Heeke performed a site visit and inspection to the Pot Springs Project in Hamilton County.
- Staff attended the first monthly Springs Grant call with FDEP and other water management districts.

### Information Technology and GIS

- Andrew Neel met virtually with Virginia Tech to discuss inter-basin flow measurement data and how the District can assist.

### Communications

- Weekly Top Performing Post

**Well Wellness**

The District **issues an average of 348** domestic self-supply wells per month.

There are **61 licensed water well contractors** within the District.

**6%** of the District's **total water use** is from domestic self-supply wells.

All domestic self-supply wells must have a **water tight seal**.

All domestic self-supply wells must be located no less than **75 feet** from the nearest septic system.

All domestic self-supply wells must have at least a **12-inch stick up**.

Performance for Your Post

**1,794** People Reached

**32** Reactions, Comments & Shares

12 Likes	3 On Post	9 On Shares
1 Love	1 On Post	0 On Shares
1 Wow	1 On Post	0 On Shares
1 Comments	0 On Post	1 On Shares
17 Shares	11 On Post	6 On Shares

**23** Post Clicks

1 Photo Views	0 Link Clicks	22 Other Clicks
---------------	---------------	-----------------

**NEGATIVE FEEDBACK**

0 Hide Post	0 Hide All Posts
0 Report as Spam	0 Unlike Page

Reported stats may be delayed from what appears on posts

Get More Likes, Comments and Shares  
When you boost this post, you'll show it to more people.

1,794 People Reached | 55 Engagements | [Boost Post](#)

Karma Norjin Lhamo, Agnes Wgai and 3 others | 11 Shares

Like | Comment | Share

### Announcements for the week of January 24 – 30, 2021

- No announcements.

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**MEMORANDUM**

TO: Governing Board  
FROM: Katelyn Potter, Chief, Office of Communications and Organizational Development  
DATE: January 26, 2021  
RE: Governing Board Directive Number 21-0002, Online Content Management

**RECOMMENDATION**

Approve Governing Board Directive 21-0002 updating the District's Online Content Management guidelines.

**BACKGROUND**

In Governing Board Directive (GBD)19-0004, the Governing Board set out policy applicable to the District's online content management for platforms such as websites, social media, email, and more.

Since the Governing Board adopted GBD19-0004, online content management practices have changed, resulting in a need for the District to update language allowing for evergreen guidelines that are general and less platform-specific. Additionally, the revised version improves brevity and better aligns with actual practices of the District, including emergency operations.

The proposed GBD21-0002 recognizes the changes listed above. A copy of proposed GBD21-0002, in "Clean" and "Redline" formats, is included. This directive will supersede GBD19-0004.

/kcp  
Attachments



# SUWANNEE RIVER WATER MANAGEMENT DISTRICT

## GOVERNING BOARD DIRECTIVE



Directive Number: ~~19-0004~~ 21-000X  
Date Approved: ~~June 11, 2019~~ February 9, 2021  
Subject: Subject: Policy for Managing District-Related Online Content  
Approval:

\_\_\_\_\_  
Virginia Johns, Chair

\_\_\_\_\_  
~~Richard Schwab~~ Charles Keith, Secretary/Treasurer

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### 1.0 Reference to Prior Policy

~~There are no prior versions of this~~ Supersedes Directive: ~~19-0004~~

### 2.0 Purpose and Intent

The purpose of the directive is to establish a provision for managing content on the District's websites, ~~blogs~~, social media sites and other online content ~~including~~.

### 3.0 Definitions

~~A. BLOG: A self-published diary or commentary on a topic that may allow visitors to post responses, reactions or comments.~~

B-A. COMMUNICATIONS STAFF: District staff assigned to handle communications functions on behalf of the District.

C-B. INAPPROPRIATE CONDUCT: Expression through any form of social media that communicates personal beliefs and opinions through insults, discriminatory behavior, offensive language or content, malicious intent, and/or would negatively impact the District's business objectives or District employees.

D-C. PAGE: The specific portion of a social media website where content is displayed and managed by an individual or individuals with administrator rights.

E-D. POST: Content an individual shares on a social media site or the act of publishing content on a site.

F-E. PROFILE: Information that a user provides about himself or herself on a social networking site.

G-F. SOCIAL MEDIA Computer-mediated technologies that facilitate the creation and sharing of information, ideas, career interests, and other forms of expression via virtual communities and networks.

H-G. SOCIAL NETWORKS: Online platforms where users can create profiles, share information and socialize with others using a range of technologies.

~~H.~~ **SPEECH:** Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication.

#### 4.0 **Elements of Policy**

##### A. Account and Content Requirements

###### Page Requirements

- a. Pages/accounts must clearly indicate they are maintained by the District and prominently display District contact information.
- b. Where possible, the page(s) should link to the District's official website.
- c. Pages shall clearly indicate that posted comments will be monitored, and that the District reserves the right to remove unrelated spam, obscenities, and personal attacks.
- d. Pages shall clearly indicate that any content posted or submitted for posting is subject to public disclosure.

###### Post Requirements

- e. Social media content posted on behalf of the District may only be posted by an official District social media page administrator or those deemed a social media ambassador by management in the Communications Office, Deputy Executive Director, or Executive Director.
- f.—The content of posts should always be created considering the target audience and to avoid inappropriate language and/or conduct.
- g. Social media content shall adhere to applicable laws, regulations, and policies, including all Information Technology and Records Management policies. Posts (including comments and other responses) are subject to public records laws. Posts must be managed, stored, and retrieved to comply with open records laws and e-discovery laws and policies

##### B. Content Principles

Information posted to a ~~district~~**District** social media account should be primarily about the ~~district's~~**District's** work; its staff, leadership, governing board; focus on a core mission; celebrate staff accomplishments; explain district projects and scientific work; highlight its public lands, cost-share project successes, water conservation tips, news of upcoming meetings and events, and similar messages.

~~The district's social media staff will "like," "share" and "retweet" or "re-pin" from the district's account on appropriate messages that are related to the district's work. Staff should remember to limit interactions to those posts that mention the district in a positive light or are on topics for which the district has a similar stand to the entity that is posting information regarding the district or common topics.~~

~~This could include sharing a local government's posting about a community service project that mentions the district or its employees, etc.~~

Additionally, District messaging is intended to:

- ~~Follow Associated Press style, as is the standard for other outreach materials.~~

- ~~Stay within district branding, while conforming to the standards of the various social media platforms.~~
- ~~Include a URL to the district website, as appropriate, for followers to get additional details.~~
- ~~Include photos or videos for most posts to engage readers.~~

~~Highlight collaboration and partnerships between stakeholders.~~

### *Comment Policy*

Staff should respond to questions in a timely fashion, when appropriate. Social media administrators should use honest, respectful and professional demeanor in communications, understanding that the account is the face of the ~~district~~District.

Use accuracy in all responses to comments or messages and post only relevant information. ~~Never offer~~Staff should refrain from offering personal opinions, ~~only facts and views consistent with the district's messaging.~~ Not all comments require a response.

### *Asking and Answering Questions*

Answering appropriate questions will be done transparently in full public view, not just to the user who asked a question. ~~Not all questions must be answered, but those deemed appropriate for response can gain feedback and increase the number of users following and liking the District's pages.~~

### *Inaccurate, Inappropriate Posts*

~~Inaccurate information will be corrected on~~The District reserves the public forum, preferably within the same business day. Communications staff will be responsible for researching and writing a response right to clear up the misinformation. Comments that personally attack a district employee hide or officer will be discussed with leadership for specific action. Responses to inappropriate comments will be handled on a case-by-case basis. ~~Offensive~~remove offensive posts will be hidden or removed by the account administrator. If the user continues to disagree or attempt to engage in a battle, staff will post a response as a public invitation to speak with that person through the District's main line and correct inaccurate information. Records from all ~~district~~District-run accounts must be made available in response to a public records request.

### *Auditing and Monitoring*

Should a public records request be made, Communications staff will work with the District Record's office to locate and copy the requested material. Additionally, all District social media accounts are monitored and archived, including user comments, posts and edited material. Users should have no expectation of privacy. Users should further be aware that the District's archiving includes both the posted version of the comment as well as all metadata, including original version which are later edited or deleted.

### C. Prohibited Content

The District reserves the right to remove content that is prohibited and considered a hindrance to the mission of the District. Such information includes: ~~-,~~ but is not limited to:

- a. Profane, offensive or abusive language
- b. Offensive graphic or explicit content
- c. Personal attacks against a person or group
- d. Endorsements of any product, service, group or business
- e. Solicitations or advertisements unless approved by Communications Office staff; example when the ~~district~~District is a co-host of an event
- f. Endorsements or lobbying for political parties, groups, or candidates
- g. Personal, sensitive, or confidential information
- h. Copyrighted content without necessary permission
- i. Photographs of the public or staff without permission

Individuals may be blocked from posting on District social media accounts when there is a pattern of violation of the above standards.

### D. Accessibility Guidance

The District is committed to providing transparent, accessible information to the public, especially to those with disabilities. Therefore, the District strictly adheres to 282.603 F.S. which outlines requirements to follow the federal Section 508 standards for electronic information sharing.

Section 508, Sub-part B, §1194.22 of the Federal Rehabilitation Act requires that individuals with disabilities, who are members of the public seeking information or services from a federal agency, have access to and use of information and data that is comparable to that provided to the public who are not individuals with disabilities, unless an undue burden would be imposed on the agency.

~~Accessibility requirements apply to information posted through the District's main website, sub-websites, internal intranet site, social media accounts, portable document format files (PDF) and all Microsoft Office documents such as Word, Excel and PowerPoint. All files produced, even if they are not placed on the web, are required by Section 508 to be accessible since these files can be distributed to the public using other methods besides the web.~~

A statement outlining the District's commitment to accessibility is required to be placed on the District's website. ~~Because accessibility is a dynamic process, a Document and Online Accessibility Implementation and Action Plan must be maintained on a bi-annual basis and added to this procedure.~~ The District will conduct periodic reviews of accessibility for web and electronic documents.

### E. Emergency Communications

During emergencies such as hurricanes, all ~~normal~~standard daily postings ~~will~~may be suspended and replaced with postings to help the public and staff stay informed of the current emergency and steps they need to take. ~~Typically, this will be news releases, photos of staff assisting at local government emergency management facilities, deploying pumps to alleviate flooding, etc. The district will~~The Communications Office staff may also share posts from emergency management entities or local, state and federal entities for road closings, boil water notices and similar safety topics.

~~In preparation for a crisis communication event, District Communications Office staff should:~~

- ~~• Create a first response plan that is accessible for staff to find.~~
- ~~• Determine team roles with back-up roles.~~
- ~~• Create social media posts and website templates available to use.~~

~~During a crisis communication event, District Communications Office staff will:~~

- ~~• Unschedule/pause all regular, “business as usual” posts.~~
- ~~• Post exclusively to Facebook, Twitter and operate in accordance with the website, limiting activities on Instagram.~~
- ~~• Post updates and respond to inquiries in real-time.~~
- ~~• Proactively provide information.~~
- ~~• Develop posts/news messages with the following content:
  - ~~○ What happened — what the District knows thus far.~~
  - ~~○ Actions underway — what the District is doing to correct the issue.~~~~

~~Next steps — provisions of the District’s plan for corrective action, and the scope of the planContinuity of Operations Plan.~~

- ~~○ Call to action — actions citizens can take and where they can go to find more information.~~
- ~~○ If no update is available, say that the District is evaluating the situation.~~

#### F. Compromised or Hacked Accounts

In the event the District’s website or social media have been hacked/experienced compromised security, Communications Office staff will immediately, upon notice:

- Change all account passwords.
- Alert IT staff of the incident in writing.
- Notify Executive Director, Governing Board and staff.
- Issue a public statement.

# SUWANNEE RIVER WATER MANAGEMENT DISTRICT

## GOVERNING BOARD DIRECTIVE

Directive Number: GBD21-0002  
Date Approved: February 9, 2021  
Subject: District Policy for Managing District-Related Online Content  
Approval:



\_\_\_\_\_  
Virginia Johns, Chair

\_\_\_\_\_  
Charles Keith, Secretary/Treasurer

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Supersedes Directive 19-0004

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Communications staff will operate in accordance with the provisions of the District's Continuity of Operations Plan.



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