

TAB 1

POINT PAPER
SANCTUARY COVE WELLS
September 22, 2008

Issue:

On June 2, 2008, Staff and the City Commission became aware of new wells that had been constructed on the site of Sanctuary Cove. City Commission requested that staff research the legality of the construction of said wells and bring the information forward as an agenda item at a Commission workshop.

Background:

The City of Palmetto's ordinances require that reclaimed water is utilized when available, and preclude the construction of new irrigation wells.

Sanctuary Cove was issued a SWFWMD permit to construct wells on their site. Attached is a copy of the permit (#20013125.000) that was issued by SWFWMD, regulating the construction and utilization of the wells. The permit allows for the utilization of wells for "recreation/aesthetics" as well as for lawn/landscape irrigation. The developer has advised the City that SWFWMD preferred the filling of the recreational basin with well water (rather than treated or reclaimed water) for environmental and sustainability reasons. You will note that the City was not copied on SWFWMD's correspondence.

The permit requires (page 3 of 7, paragraph 2) that the permittee must submit a report to SWFWMD regarding the feasibility of utilizing reclaimed water, not later than February 1, 2009. SWFWMD representatives have confirmed that this stipulation is included in the permit to allow for a timely review of the entire situation, with regard to both the availability of reclaimed water and the status of the filling of the basin.

Action Required:

None

*Michele S. Hall, P.L.
Attorney at Law
505 25th Street West
Bradenton, Florida 34205*

mshlawoffice@gmail.com

(941)745-1920 phone
(813)433-5556 fax

MEMORANDUM

TO: Chris Lukowiak, Public Works Director
FROM: Michele S. Hall, City Attorney
DATE: September 15, 2008
RE: Sanctuary Cove Irrigation Wells

This memorandum will follow up on our prior discussion pertaining to the City's ability to regulate irrigation wells. The developer of Sanctuary Cove has received a Water Use Permit (No. 20013125.00) for irrigation of approximately 45 acres of landscape within the development. You report that reclaimed water transmission lines are now in place such that reclaimed water could be used for irrigating those same lands.

Section 29-103 of the City Code of Ordinances provides, in relevant part:

(c) *Irrigation wells.* Customers may continue to use existing irrigation wells for irrigation purposes after reclaimed water is available provided such use is consistent with the rules, regulations and orders issued by the Southwest Florida Water Management District (SWFWMD). The city shall prohibit the installation of new irrigation wells or the rehabilitation of existing irrigation wells where reclaimed water is available. (Emphasis supplied.)

The City Code does not contain a definition of "available" for purposes of implementing the above underlined provision. It is common knowledge that during times of drought some properties that are connected to reclaimed water to do not receive water. The fact that a property may be connected to reclaimed water facilities does not necessarily mean that reclaimed water is *available* to that property all the time. Thus, in instances where there is a question as to whether reclaimed water flows to a given property every single day, installation of new irrigation wells technically may not be prohibited by Section 29-103.

In addition, the State of Florida has preempted local governments with respect to regulating the consumptive use of water. Florida Statutes § 373.217, in relevant part, provides the following:

(2) It is the further intent of the Legislature that Part II of the Florida Water Resources Act of 1972, as amended, as set forth in ss. 373.203-373.249, shall provide the exclusive authority for requiring permits for the consumptive use of water and for authorizing transportation thereof pursuant to s. 373.223(2).

(3) If any provision of Part II of the Florida Water Resources Act of 1972, as amended, as set forth in ss. 373.203-373.249, is in conflict with any other provision, limitation, or restriction which is now in effect under any law or ordinance of this state or any political subdivision or municipality, or any rule or regulation promulgated thereunder, Part II shall govern and control, and such other law or ordinance or rule or regulation promulgated thereunder shall be deemed superseded for the purpose of regulating the consumptive use of water.

The State has delegated the authority to issue Water Use Permits in Manatee County to the Southwest Florida Water Management District ("SWFWMD"). In this case, the developer's application was submitted to and reviewed by SWFWMD prior to the extension of reclaimed water lines to the boundary of the development. Nevertheless, SWFWMD was mindful of the prospect of reclaimed water service and inserted a routine special condition into the permit which requires the developer to submit a report to SWFWMD in February of 2009 that outlines the availability and feasibility of reclaimed water for irrigation purposes. Applicable administrative rules require that reuse measures be incorporated "to the greatest extent practicable". In addition, the developer has expressed an intent to use reclaimed water whenever it is available, with the permitted wells to be used as a "backup" source of irrigation.

Every Water Use Permit is classified according to source, use, and method of withdrawal. While the Water Use Permit for Sanctuary Cove is currently classified as "Recreational / Aesthetic", permitting the withdrawal of water from 5 wells for irrigation purposes and to augment the onsite lake. Given that reclaimed water is now available to the site, SWFWMD has the authority to place one or more of the wells on "standby" status (as opposed to "operational" status) which would restrict the developer's use of well water only to those times when reclaimed water is not available. Reclaimed water, however, is not suitable for all uses. It may be the case that reclaimed water is not suitable for lake augmentation, in which case the

developer would need to rely on groundwater to fill the lake during times of drought.

It is possible that the developer will agree to a permit modification that places one more wells on standby status. Alternatively, the City may choose to submit a written objection to the permit within approximately the next thirty days (a defect in noticing allows objections to be considered by SWFWMD despite the fact that the permit was issued in January 2008). The City also has the option of entering into a separate agreement with the developer, CDD or other appropriate entity requiring that well water will be used only as a secondary source.

It is my opinion that it is in the best interest of the City to request that the developer agree to any permit modification supported by data and SWFWMD's review thereof. The City's submission of an objection to SWFWMD would set in place a lengthy process that could hinder or delay development on the site, and be costly to the developer. While execution of an agreement addressing the use of reclaimed water is a viable option, in the future the City may have to enforce the agreement against another government agency (the community development district) or a private entity (a homeowner's association), which could be time consuming and expensive. From the City's perspective, having SWFWMD enforce permit conditions is preferable to the City having to take legal action to ensure that reclaimed water is used "to the greatest extent practicable".

MEMORANDUM

TO: Mayor Larry Bustle
City Commission
Bob Schmitt, City Planner
Michele Hall, City Attorney

FROM: Chris Lukowiak, Director, Department of Public Works

RE: Sanctuary Cove Well Permitting

DATE: August 15, 2008

Pursuant to the inquiry regarding the construction of wells at the Sanctuary Cove Development, I am writing to provide you with the information which is thus far available.

The Department of Public Works and elected officials became aware of the existence of new wells at Sanctuary Cove while on a tour of the project site on June 2, 2008. The number of wells and date of drilling were not known until staff sought additional information.

Attached is a copy of the permit (#20013125.000) that was issued by SWFWMD, regulating the construction and utilization of the wells. The permit allows for the utilization of wells for "recreation/aesthetics" as well as for lawn/landscape irrigation. The developer has advised the City that SWFWMD preferred the filling of the recreational basin with well water (rather than treated or reclaimed water) for environmental and sustainability reasons. You will note that the City was not copied on SWFWMD's correspondence.

The permit requires (page 3 of 7, paragraph 2) that the permittee must submit a report to SWFWMD regarding the feasibility of utilizing reclaimed water, not later than February 1, 2009. SWFWMD representatives have confirmed that this stipulation is included in the permit to allow for a timely review of the entire situation, with regard to both the availability of reclaimed water and the status of the filling of the basin.

Staff has requested proof of publication, so as to determine whether proper noticing requirements were met with regard to the opportunity for parties with "substantial interest" to appeal the SWFWMD permit or request a hearing.

The City Attorney has investigated the issue in as much as the City has an ordinance that is in conflict with SWFWMD's issuance of a permit to construct new irrigation wells. Her opinion is attached to this correspondence.

I will provide you with additional information as it becomes available.



SANCTUARY COVE

July 31, 2008

Bob Schmitt
City Planner
City of Palmetto
600 17th Avenue West
Palmetto, FL 34221

Re: Sanctuary Cove Water Use Permit

Dear Mr. Schmitt,

I am writing you this letter in an attempt to answer some of the questions that have been raised about the wells at Sanctuary Cove. When we acquired the site there were two existing wells. Those wells have been capped and we have since installed five new wells. We started the permitting process with The Southwest Florida Water Management District back in 2006 and were issued the permit in January 2008. In 2006 we did not know if, or when, reclaimed water would be available to the Sanctuary Cove site. The purpose for installing the wells is to be a source for irrigation when reclaimed water is not available. Our history with Riviera Dunes has been that there is not a consistent supply of water or pressure at the end of the line during crucial dry months and the landscaping has suffered. Since we are a maintenance-free community there is a master irrigation system that controls most of the property. It is extremely important to us to be able to protect our investment in landscaping and that is why we need the wells. It is our intent to irrigate using reclaimed water when it is available and have the wells as a back-up position. I have attached a copy of the Water Use Permit #20013125.000 for your reference. If you have any questions please let me know.

Sincerely,

Bjorn Svenson
Development Partner



At Risk
Opportunity
Empowerment

Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899
(352) 796-7211 or 1-800-423-1476 (FL only)
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)
On the Internet at: WaterMatters.org

Bartow Service Office
170 Century Boulevard
Bartow, Florida 33830-7700
(863) 534-1448 or
1-800-492-7862 (FL only)
SUNCOM 572-6200

Lecanto Service Office
Suite 226
3600 West Sovereign Path
Lecanto, Florida 34461-6070
(352) 527-8131

Sarasota Service Office
6750 Fruitville Road
Sarasota, Florida 34240-9711
(941) 377-3722 or
1-800-320-3503 (FL only)
SUNCOM 531-6900

Tampa Service Office
7601 Highway 301 North
Tampa, Florida 33637-6759
(813) 985-7481 or
1-800-836-0797 (FL only)
SUNCOM 578-2070

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Patsy C. Symons
DeSoto

David L. Moore
Executive Director

William S. Blenky
General Counsel

January 3, 2008

Linda Svenson, Managing Member
Sanctuary Development Partners, LLC
1301 10th Avenue, Suite E
Palmetto, FL 34221

Subject: Final Agency Action Transmittal Letter
General Water Use Permit No. 20013125.000

Dear Ms. Svenson

Your Water Use Permit has been approved. Final approval is contingent upon no objection to the District's action being received by the District within the time frames described below.

You or any person whose substantial interests are affected by the District's action regarding a permit may request an administrative hearing in accordance with Sections 120.569 and 120.57, Florida Statutes, (F.S.), and Chapter 28-106, Florida Administrative Code, (F.A.C.), of the Uniform Rules of Procedure. A request for hearing must (1) explain how the substantial interests of each person requesting the hearing will be affected by the District's action, or proposed action; (2) state all material facts disputed by the person requesting the hearing or state that there are no disputed facts; and (3) otherwise comply with Chapter 28-106, F.A.C. Copies of Sections 28-106.201 and 28-106.301, F.A.C., are enclosed for your reference. A request for hearing must be filed with (received by) the Agency Clerk of the District at the District's Brooksville address within 21 days of receipt of this notice. Receipt is deemed to be the fifth day after the date on which this notice is deposited in the United States mail. Failure to file a request for hearing within this time period shall constitute a waiver of any right you or such person may have to request a hearing under Sections 120.569 and 120.57, F.S. Mediation pursuant to Section 120.573, F.S. to settle an administrative dispute regarding the District's action in this matter is not available prior to the filing of a request for hearing.

Enclosed is a 'Noticing Packet' that provides information regarding District Rule, 40D-1.1010, F.A.C. which addresses the notification of persons having substantial interests that may be affected by the District's action in this matter. The packet contains guidelines on how to provide notice of the District's action, and a notice that you may use.

Please be advised that the Governing Board has formulated a water shortage plan as referenced in Condition 4 of the Standard Water Use Permit Conditions (Exhibit A), and will implement such a plan during periods of water shortage. You will be notified during a declared water shortage of any change in the conditions of your Permit or any suspension of your Permit, or of any restriction on your use of water for the duration of any declared water shortage. Please further note that water conservation is a condition of your Permit and should be practiced at all times.

January 3, 2008

The ID tags for your withdrawals shall be installed by a District representative. This representative will attempt to contact you within 30 days to discuss placement of your tags. If you have any questions or concerns regarding your tags, please contact Cheryl A. Johnson at extension 6518, in the Sarasota Regulation Department. If you have any questions or concerns regarding your permit or any other information, please the Sarasota Regulation Department and ask to speak to someone in the Water Use Regulation Section.

Sincerely,



Paul W. O'Neil, Jr., P.E., Department Director
Regulation Performance Management

PWO:jjm

Enclosures: Approved Permit, Rules 28-106.201 and 28-106.301, F.A.C., and Noticing Packet

cc: File of Record

Christopher S. Wright, E.I., Wright Consulting Group, Inc.

**SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT
WATER USE
GENERAL
PERMIT NO. 20013125.000**

EXPIRATION DATE: January 3, 2018

PERMIT ISSUE DATE: January 3, 2008

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

TYPE OF APPLICATION: New

GRANTED TO: Sanctuary Development Partners, LLC
1301 10th Avenue, Suite E
Palmetto, FL 34221

PROJECT NAME: Sanctuary Cove

WATER USE CAUTION AREA: Southern - Most Impacted Area

TOTAL QUANTITIES AUTHORIZED UNDER THIS PERMIT (in gpd)

STANDARD ANNUAL AVERAGE	70,300 gpd
DROUGHT ANNUAL AVERAGE ¹	86,700 gpd
PEAK MONTH ²	301,000 gpd

¹ Annual average limit when less than historical average rainfall if sufficient Water Conserving Credits exist in the Permittee's account.

² Average daily use during the highest water use month.

PROPERTY LOCATION: 216 owned acres in Manatee County, approximately 1.5 miles east of the intersection of Interstate 75 and U.S. Highway 301.

ABSTRACT: This is a new Recreation/Aesthetic water use permit for the irrigation of 45 acres of landscape. Irrigation quantities are allocated based on the District's water use calculation program AGMOD. Information regarding the water use and special conditions is contained within the tables and comments below.

WATER USE TABLE (in gallons per day)

Use	Standard Annual Average	Drought Annual Average	Peak Month
Recreation/Aesthetic:	70,300	86,700	301,000

IRRIGATION ALLOCATION RATE TABLE

CROP/USE TYPE	IRRIGATED ACRES	IRRIGATION METHOD	STANDARD IRRIGATION RATE	DROUGHT IRRIGATION RATE
Lawn and Landscape	45	Low volume under tree spray	21.0"/yr.	25.9"/yr.

FACILITY NAME
Sanctuary Cove

WITHDRAWAL POINT QUANTITY TABLE

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

I.D. NO. PERMITTEE/ DISTRICT	DIAM. (IN.)	DEPTH TTL./CSD.FT. (feet bls)	USE	GALLONS PER DAY		
				AVERAGE	PEAK MONTH	
1 / 1	6	350 / 100	AU	14,000	60,200	
2 / 2	6	350 / 100	AU	14,000	60,200	
3 / 3	6	350 / 100	AU	14,100	60,200	
4 / 4	6	350 / 100	AU	14,100	60,200	
5 / 5	6	350 / 100	AU	14,100	60,200	
6 / 6	12	N / A	RP	70,300	301,000	Unnamed Lake

AU = Augmentation
RP = Repump

WITHDRAWAL POINT LOCATION TABLE

DISTRICT I.D. NO.	LATITUDE/LONGITUDE	SECTION/TOWNSHIP/RANGE
1	273059.54/823238.18	18/34/18
2	273052.98/823225.50	18/34/18
3	273044.72/823293.80	18/34/18
4	273106.69/823253.30	18/34/18
5	273106.08/823252.42	18/34/18
6	273106.09/823252.43	18/34/18

SPECIAL CONDITIONS:

All conditions referring to approval by the Regulation Department Director, Resource Regulation, shall refer to the Director, Sarasota Regulation Department, Resource Regulation.

- All reports and data required by conditions of the permit shall be submitted to the District according to the due dates contained in the specific condition. If the report or data is received on or before the tenth day of the month following data collection, it shall be deemed as a timely submittal. The Permittee may use the District's website to submit data, plans or reports online. To set up an account, the Permittee can address the request to permitdata@watermatters.org. All mailed reports and data are to be sent to:

Permit Data Section, Regulation Performance Management Department
 Southwest Florida Water Management District
 2379 Broad Street
 Brooksville, Florida 34604-6899

Submission of plans and reports: Unless submitted online or otherwise indicated in the special condition, the original and two copies of each plan and report, such as conservation plans, environmental analyses, aquifer test results, per capita annual reports, etc. are required.

Submission of data: Unless otherwise indicated in the special condition, an original (no copies) is required for data submittals such as crop report forms, meter readings and/or pumpage, rainfall, water level evapotranspiration, or water quality data.

2. The Permittee shall investigate the feasibility of using reclaimed water as a water source and submit a report describing the feasibility to the Permit Data Section, Regulation Performance Management Department, by **February 1, 2009**. The report shall contain an analysis of reclaimed water sources for the area, including the relative location of these sources to the Permittee's property, the quantity of reclaimed water available, the projected date of availability, costs associated with obtaining the reclaimed water, and an implementation schedule for reuse, if feasible. Infeasibility shall be supported with a detailed explanation.
3. The total withdrawal from District ID Nos. **1, 2, 3, 4 and 5**, Permittee ID Nos. **1, 2, 3, 4 and 5**, 6 inch wells, for augmenting **Onsite Lake** shall not exceed the total withdrawal from District ID No. **6**, Permittee ID No. **6**, from the water body for irrigation during any month.
4. Any wells not in use, and in which pumping equipment is not installed shall be capped or valved in a water tight manner in accordance with Subsection 62-532.500(3)(a)(4), F.A.C.
5. The Permittee shall construct the proposed wells according to the surface diameter, casing depth, and total depth specifications below. The casing depth and total depth specified are to prevent the unauthorized interchange of water between different water bearing zones. The maximum total depth listed below is an estimate, based on best available information, of the depth to the bottom of the Intermediate aquifer. However, it is the Permittee's responsibility to have the water in the well sampled during well construction, before reaching the estimated total depth. Such sampling is necessary to ensure that the well does not encounter water quality that cannot be utilized by the Permittee, and to ensure that withdrawals from the well will not cause salt-water intrusion.

<u>District ID No.</u>	<u>Permittee ID No.</u>	<u>Surface Diameter</u>	<u>Minimum Casing Depth</u>	<u>Maximum Total Depth</u>
1	1	6"	100'	350'
2	2	6"	100'	350'
3	3	6"	100'	350'
4	4	6"	100'	350'
5	5	6"	100'	350'

- A. The casing shall be continuous from land surface to the minimum depth stated above.
- B. All well casing (including liners and/or pipe) must be sealed to the depth specified above.
- C. The proposed wells shall be constructed of materials that are resistant to degradation of the casing/grout due to interaction with the water of lesser quality. A minimum grout thickness of two (2) inches is required on wells four (4) inches or more in diameter.
- D. A minimum of twenty (20) feet overlap and two (2) centralizers is required for Public Supply wells, and all wells six (6) inches or more in diameter.
- E. The finished well casing depth shall not vary from these specifications by greater than ten (10) percent unless advance approval is granted by the Regulation Department Director, Resource Regulation, or the Supervisor of the Well Construction Permitting Section in Brooksville.

- F. Advance approval from the Regulation Department Director, Resource Regulation, is necessary should the Permittee propose to change the well location or casing diameter.

The Permittee shall submit a copy of the well completion report as filed with the **Environmental Action Commission of Manatee County** to the District Permit Data Section, Regulation Performance Management Department within 30 days of well completion.

6. Within 90 days of the replacement of any or all withdrawal quantities from ground water or surface water bodies with an Alternative Water Supply, the Permittee shall apply to modify this permit to reflect incorporation of the alternative source of water to replace permitted quantities in equal amounts. The replaced water shall be put on standby and may be used in the event that some or all of the alternative source is not available.
7. The Permittee shall:
- A. Incorporate best water management practices, specifically including but not limited to irrigation practices, as recommended for the permitted activities in reports and publications by the IFAS.
 - B. Limit daytime irrigation to the greatest extent practicable to reduce losses from evaporation. Daytime irrigation for purposes of system maintenance, control of heat stress, crop protection, plant establishment, or for other reasons which require daytime irrigation are permissible; but should be limited to the minimum amount necessary as indicated by best management practices.
 - C. Implement a leak detection and repair program as an element of an ongoing system maintenance program. This program shall include a system-wide inspection at least once per year.
 - D. Evaluate the feasibility of improving the efficiency of the current irrigation system or converting to a more efficient system. This condition includes implementation of the improvements or conversion when determined to be operationally and economically feasible.
8. This Permit is located within the Southern Water Use Caution Area (SWUCA). Pursuant to Section 373.0421, Florida Statutes, the SWUCA is subject to a minimum flows and levels recovery strategy, which became effective on January 1, 2007. The Governing Board may amend the recovery strategy, including amending applicable water use permitting rules based on an annual assessment of water resource criteria, cumulative water withdrawal impacts, and on a recurring five-year evaluation of the status of the recovery strategy up to the year 2025 as described in Chapter 40D-80, Florida Administrative Code. This Permit is subject to modification to comply with new rules.
9. The Permittee shall not exceed the quantity determined by multiplying the total irrigated acres by the total allocated acre-inches per irrigated acre per season for each crop type. For all crops except citrus, an irrigated acre, hereafter referred to as "acre," is defined as the gross acreage under cultivation, including areas used for water conveyance such as ditches, but excluding uncultivated areas such as wetlands, retention ponds, and perimeter drainage ditches. For citrus, an irrigated acre is based on 74% shaded area, equivalent to 89.4% of the gross acreage minus uncultivated areas such as wetlands, retention ponds, and perimeter drainage ditches.

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

10. The Permittee shall install and maintain a shut-off switch, subject to District approval, in the surface water management system lake which receives augmentation. The shut-off switch shall be installed in such a manner that augmentation from District Withdrawal Nos. 1, 2, 3, 4 and 5 automatically ceases when the water level reaches an elevation of 3.3 feet above the National Geodetic Vertical Datum (N.G.V.D.). No augmentation shall occur when the water level in the pond is at or above 3.3 feet N.G.V.D.
11. The Permittee shall install and maintain a shut-off switch, subject to District approval, in the surface water management system lake which receives augmentation. The shut-off switch shall be installed in such a manner that pumpage from the lake from District Withdrawal No. 6 automatically ceases when the water level reaches an elevation of 1.8 feet above the National Geodetic Vertical Datum (N.G.V.D.). No pumpage from the lake shall occur when the water level in the pond is at or below 1.8 feet N.G.V.D.
12. The Permittee shall install and maintain a back-flow prevention system on District Withdrawal Nos. 1, 2, 3, 4 and 5 preventing water in the lake range from entering the wells.
13. The Permittee shall maximize the use of surface waters before utilizing ground water for augmentation of the lake. Augmentation for aesthetic purposes only is strictly prohibited.

STANDARD CONDITIONS:

The Permittee shall comply with the Standard Conditions attached hereto, incorporated herein by reference as Exhibit "A" and made a part hereof.



Authorized Signature
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

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

12. The Permittee shall mitigate any adverse impact to existing legal uses caused by withdrawals. When adverse impacts occur or are imminent, the District shall require the Permittee to mitigate the impacts. Adverse impacts include:
 - A. A reduction in water levels which impairs the ability of the well to produce water;
 - B. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams or other watercourses; or
 - C. Significant inducement of natural or manmade contaminants into a water supply or into a usable portion of any aquifer water body.
13. The Permittee shall mitigate any adverse impact to environmental features or offsite land uses as a result of withdrawals. When adverse impacts occur or are imminent, the District shall require the Permittee to mitigate the impacts. Adverse impacts include:
 - A. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams or other watercourses;
 - B. Sinkholes or subsidence caused by reduction in water levels;
 - C. Damage to crops and other vegetation causing financial harm to the owner; and
 - D. Damage to the habitat of endangered or threatened species.
14. When necessary to analyze impacts to the water resource or existing users, the District shall require the Permittee to install flow metering or other measuring devices to record withdrawal quantities and submit the data to the District.
15. A District identification tag shall be prominently displayed at each withdrawal point by permanently affixing the tag to the withdrawal facility.
16. Notwithstanding the provisions of Rule 40D-1.6105, F.A.C., persons who wish to continue the water use permitted herein and who have acquired ownership or legal control of permitted water withdrawal facilities or the land on which the facilities are located must apply to transfer the permit to themselves within 45 days of acquiring ownership or legal control of the water withdrawal facilities or the land.
17. All permits issued pursuant to these Rules are contingent upon continued ownership or legal control of all property on which pumps, wells, diversions or other water withdrawal facilities are located.
18. Within the Southern Water Use Caution Area, if the District determines that significant water quantity or quality changes, impacts to existing legal uses, or adverse environmental impacts are occurring, the Board, upon reasonable notice to the permittee, including a statement of facts upon which the District based its determination, may reconsider the quantities permitted or other conditions of the permit as appropriate to address the change or impact but only after an opportunity for the permittee to resolve or mitigate the change or impact or to request a hearing.

**PART II HEARINGS INVOLVING
DISPUTED ISSUES OF MATERIAL FACT**

28-106.201 Initiation of Proceedings.

- (1) Unless otherwise provided by statute, initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.
- (2) All petitions filed under these rules shall contain:
 - (a) The name and address of each agency affected and each agency's file or identification number, if known;
 - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
 - (c) A statement of when and how the petitioner received notice of the agency decision;
 - (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
 - (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
 - (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
 - (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.
- (3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.
- (4) A petition shall be dismissed if it is not in substantial compliance with subsection (2) of this rule or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.
- (5) The Agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.

*Specific Authority 120.54(3), 120.54(5) FS.
Law Implemented 120.54(5), 120.569, 120.57 FS.
History—New 4-1-97, Amended 9-17-98.*

**PART III PROCEEDINGS AND HEARINGS NOT INVOLVING
DISPUTED ISSUES OF MATERIAL FACT**

28-106.301 Initiation of Proceedings.

- (1) Initiation of a proceeding shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document which requests a proceeding. Each petition shall be legible and on 8 1/2 by 11 inch white paper or on a form provided by the agency. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.
- (2) All petitions filed under these rules shall contain:
 - (a) The name and address of each agency affected and each agency's file or identification number, if known;
 - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
 - (c) A statement of when and how the petitioner received notice of the agency decision;
 - (d) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
 - (e) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
 - (f) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.
- (3) If the petition does not set forth disputed issues of material fact, the agency shall refer the matter to the presiding officer designated by the agency with a request that the matter be scheduled for a proceeding not involving disputed issues of material fact. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.
- (4) A petition shall be dismissed if it is not in substantial compliance with subsection (2) of this Rule or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.
- (5) The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.

*Specific Authority 120.54(5) FS.
Law Implemented 120.54(5), 120.569, 120.57 FS.
History—New 4-1-97, Amended 9-17-98.*