



## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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### LAND ACQUISITION EXECUTIVE SUMMARY

**PROJECT:** CERP C-51/L-8 Reservoir  
**COUNTY:** Palm Beach  
**REQUEST:** Amendment of Consent Final Judgments in the Palm Beach Aggregates, Inc. Acquisition and Proposed Memorandum of Understanding with Florida Power and Light Company with Respect to Project Operations and Maintenance

**BACKGROUND:** In December, 2002, the Governing Board authorized entering into a Consent Final Judgment to acquire approximately 1220 acres of land known as Palm Beach Aggregates to be utilized as the C-51 and L-8 Reservoir Component of the North Palm Beach County-Part One, Comprehensive Everglades Restoration Project ("CERP"). The Consent Final Judgment required delivery of a water storage volume of 31,500 acre feet in accordance with a six year delivery schedule with the Property Owner reserving a perpetual easement over the bottom 10 feet.

The following year, January 2004, the District acquired the perpetual easement reserved in the initial acquisition which provided an additional approximate 15,500 acre feet of storage resulting in a cumulative storage capacity of approximately 47,000 acre feet contained within two separate storage areas, north and south, which were divided by a dredged process pit retained under the ownership of Palm Beach Aggregates, Inc. ("PBA")

In February, 2005, the Governing Board approved entering into an exchange agreement with PBA. Under the proposed exchange, the District would convey lands acquired in the southernmost end of the Project's South Storage Area in exchange for the dredged process pit centrally located between the Project's Northern and Southern Storage Areas. The approved exchange provides the District with water storage and operational benefits by having a single contiguous water storage area rather than two disconnected areas. (Exhibit "A")

#### GOVERNING BOARD REQUEST:

#### Amendment to the Consent Final Judgments

As a result of the above action, the following amendments to both consent final judgments are proposed. The amendments maintain the initial construction completion date of December 2007 and provide for improved levees throughout the Project without any increase in the compensation to PBA.

Modification of the current delivery of interim deliveries of useable storage as a condition to PBA making interim withdrawals of compensation so as to allow PBA partial withdrawals of up to 85% of funds based on the area certified as excavated. PBA will not reduce the current interim useable storage volume of 18,000 acre feet previously delivered to the District.

#### GOVERNING BOARD

Kevin McCarty, *Chair*  
Irela M. Bagué, *Vice-Chair*  
Pamela Brooks-Thomas

Alice J. Carlson  
Michael Collins  
Nicolás J. Gutiérrez, Jr., Esq.

Lennart E. Lindahl, P.E.  
Harkley R. Thornton  
Malcolm S. Wade, Jr.

#### EXECUTIVE OFFICE

Carol Ann Wehle, *Executive Director*

Modification of the requirement for PBA making up interim storage delivery deficits allowing deficits to be delivered up to 270 days after the final delivery date of 2007 rather than within a year of each delivery.

Modification of the Northern Storage Area Infrastructure completion date and the final delivery of, at least, 18,000 acre feet of useable storage for the North Storage Area moved from the fourth delivery date (1/06) to the fifth delivery date (11/06).

Modification of the maximum withholding to ensure compliance with the water storage seepage test by reducing the withholding to \$15,000,000 from \$31,400,000 based on updated cost estimates for potential seepage cures and, PBA already having installed a slurry wall around three sides in the South Storage Area.

**Memorandum of Understanding with Florida Power & Light**

In addition, in order to provide the single connected water storage area between the process pit and Southern Storage Area, excavation, installation, operation and maintenance of culvert(s), channel(s) or cut(s) is required within a portion of an existing Florida Power & Light (FP&L) utility easement area. This existing FP&L easement forms the border between the process pit and Southern Storage Area. To obtain consent from FP&L and to provide satisfactory alternative access for FP&L's needs, the Governing board, at its February 2005 meeting, approved granting an access easement to FP&L via the L-8 Right of Way.

At the May Governing Board meeting, authorization is requested to enter into a Memorandum of Understanding with FP&L to address the District's operation and maintenance activities within the Easement Area and to coordinate activities therein.

**FISCAL IMPACT:** None

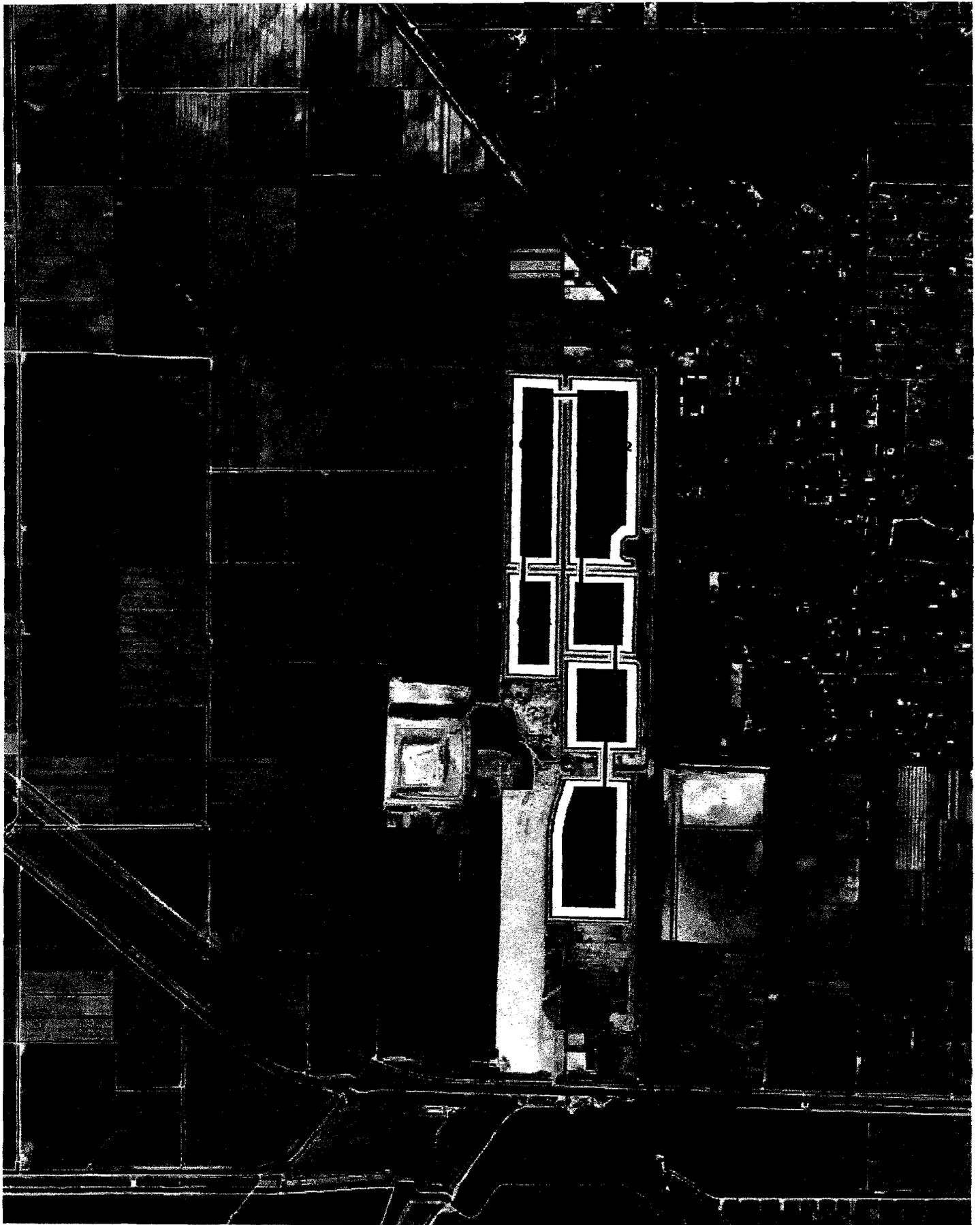
**RECOMMENDATION:** That the Governing Board of the South Florida Water Management District authorize entering into an Amended Consent Final Judgment in the two cases titled South Florida Water Management District vs. Palm Beach Aggregates, Inc., filed in the 15<sup>th</sup> Circuit Court for Palm Beach County, Florida and that the General Counsel or her designee be authorized to execute the Amendment to the Consent Final Judgments and, that the Governing Board of the South Florida Water Management district authorize entering into a Memorandum of Understanding with Florida Power and Light Company with respect to Project operations and maintenance.

Prepared by: R. Clements  
Ruth P. Clements, Director  
Land Acquisition Department

4/27/06  
Date

Approved by: Kenneth G. Ammon  
Kenneth G. Ammon, P.E.  
Deputy Executive Director  
CERP

4-28-06  
Date



Palm Beach Aggregates

Exhibit A