

MEMORANDUM

TO: Governing Board Members

FROM: Tommy Strowd, Deputy Executive Director,
Operations and Maintenance Resource Area

DATE: August 02, 2010

SUBJECT: **With respect to the Deer Fence Canal (G-3W), the Governing Board of the South Florida Water Management District authorize waiver of Rule 40E-6.601, F.A.C. (payment of Application and Processing Fees) with respect to pre-existing facilities; and authorizes waiver of Rule 40E-6.221(2)(j), F.A.C. for those pre-existing facilities which may not meet the District's Right of Way Occupancy Permitting rules and criteria**

Background:

Concurrent with the declaration and adoption of the Deer Fence Canal right of way, Hendry County, as a Work of the District, staff is recommending that the Governing Board authorize the waiver of Rule 40E-6.601, F.A.C. (payment of Application and Processing Fees) with respect to pre-existing facilities; and authorize the waiver of Rule 40E-6.221(2)(j), F.A.C. for those pre-existing facilities which may not meet the District's Right of Way Occupancy Permitting rules and criteria.

Staff's recommendation to waive the application processing fee and right of way criteria is based on principles of fairness as the property owners' facilities existed prior to the adoption of Deer Fence Canal (G-3W) as a Work of the District. The District's Operation Maintenance Resource staff has determined that the existing facilities will not interfere with the District's ability to perform necessary construction, alteration, operation and routine maintenance activities on this newly adopted Work of the District so the purpose of the underlying statute will be achieved.

District staff is currently working with those landowners in applying to the District for issuance of Right of Way Occupancy Permits; the Waiver of District Rule and criteria will only apply to the pre-existing facilities and will not apply to the installation of proposed facilities or modifications to the existing facilities in the future.

Property Owners:

Southern Gardens Grove Corporation
H&H Farms, LLC
Point of Cypress
J Seven Ranch, Incorporated
J.W. McDaniel, Sr., Incorporated
Michael J. Crooks

Staff Recommendation:

Staff recommends that with respect to the Deer Fence Canal (G-3W), the Governing Board authorize the waiver of Rule 40E-6.601, F.A.C. (payment of Application and Processing Fees) with respect to pre-existing facilities; and authorize the waiver of Rule 40E-6.221(2)(j), F.A.C. for those pre-existing facilities which may not meet the District's Right of Way Occupancy Permitting rules and criteria.

TS/jp