SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RESOLUTION NO. 2010 _____

A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE DISTRICT STAFF TO FILE SUIT TO ENFORCE DISTRICT STATUTES, ORDERS AND RULES, AND TO PURSUE ANY APPROPRIATE DAMAGES AND REMEDIES, AND TAKE ALL APPROPRIATE ACTION, INCLUDING THE AUTHORITY TO SETTLE THE MATTER, SUBJECT TO THE APPROVAL OF THE EXECUTIVE DIRECTOR, AGAINST BIG ISLAND EXCAVATING, INC., WILLIAM MCDANIEL, JR., AND ANY OTHER APPROPRIATE OR NECESSARY PARTIES, IN PALM BEACH COUNTY CIRCUIT COURT OR OTHER APPROPRIATE FORUM.

WHEREAS, Sections 373.083(1) and 373.129, Florida Statutes, authorizes the South Florida Water Management District to bring suit.

WHEREAS, on or about January 13, 2009, the Governing Board approved/executed Consent Agreement Order No. SWFMD 2009 003 CO WU with Big Island Excavating, Inc. (Respondent), to address previous violations involving dewatering without a permit.

WHEREAS, pursuant to Consent Agreement Order No. SWFMD 2009 003 CO WU Respondent was required to pay $34,200 in civil penalties and $2,000 in staff/investigative costs for a total of $36,200 to the District, with half of the payment due within six months of execution of the Agreement and the other half of the payment due within 12 months of execution of the Agreement.

WHEREAS, since the Consent Agreement was executed/signed, Respondent has failed to pay any monies whatsoever owed to the District under the terms of the Consent Agreement/Order and has failed to comply with the terms of the Consent Agreement/Order, **now therefore**

BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:

<u>Section 1</u> The Governing Board of the South Florida Water Management District hereby authorizes District Staff to file suit to enforce District Statutes, Orders, and Rules and to pursue any appropriate damages or remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against Big Island Excavating, Inc., William McDaniel, and any other appropriate or necessary parties, in Palm Beach County Circuit Court or any other appropriate forum.

<u>Section 2</u> This Resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this ____ day of _____ 2010.

Approved as to form:

BY: _____

Office of Counsel

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

By: _____

Chairperson

ATTEST:

_____

District Clerk