



**STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

CITY OF ST. CLOUD

Petitioner,

**DOAH CASE #: 08-0260
Order No. SFWMD 2008-DAO-WU
App. No. 060410-18**

vs.

**SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,**

Respondent,

and

**POLK COUNTY, OSCEOLA COUNTY and
TOHOPEKALIGA WATER AUTHORITY**

Intervenors.

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into by and between the City of St. Cloud, a city and political subdivision of the State of Florida, and the South Florida Water Management District, a public corporation of the State of Florida.

WITNESSETH:

WHEREAS, on December 13, 2007, SFWMD's Governing Board denied St. Cloud's application for a consumptive use permit (Application No. 060410-18) requesting to make withdrawals of surface water from East Lake Tohopekaliga, to meet existing and future urban irrigation demands by supplementing reclaimed water supplies. A copy of the SFWMD Staff Report which was presented to SFWMD's

Governing Board with Staff's recommendation on St. Cloud's permit application prior to denial is attached hereto as Exhibit "A".

WHEREAS, on January 2, 2008, St. Cloud filed a Petition for Administrative Hearing contesting SFWMD's decision to deny its application for consumptive use permit (Application No. 060410-18) and the Petition was forwarded to the Division of Administrative Hearings (DOAH Case No. 08-0260); and

WHEREAS, St. Cloud and SFWMD have agreed that in exchange for St. Cloud's dismissal with prejudice of DOAH Case No. 08-0260 and withdrawal of Application No. 060410-18 for a consumptive use permit, SFWMD will make a monetary contribution to the development of a comprehensive water supply plan.

NOW THEREFORE, in consideration of the foregoing premises, which are made a part of this Settlement Agreement, and the mutual terms, covenants and conditions set forth herein, the SFWMD and St. Cloud agree as follows:

Section 1. The parties hereto agree that the above recitals are true and correct.

Section 2. On the Effective Date of this Settlement Agreement, and contemporaneous with the actions of SFWMD set forth immediately below, and in accordance with the terms of this Settlement Agreement, St. Cloud (1) withdraws its application for consumptive use Permit No. 060410-18, and (2) voluntarily dismisses its petition for administrative hearing contesting the District's decision to deny its application for consumptive use Permit No. 060410-18 (DOAH Case No. 08-0260) as moot. Upon execution of this Settlement Agreement, St. Cloud shall file with the SFWMD a Notice of Dismissal with Prejudice and a Notice of Withdrawal of Application.

Section 3. Nothing in this Settlement Agreement shall be construed to prohibit St. Cloud from reapplying for a consumptive use permit or permits for the development of surface water from the Kissimmee River system, including the Kissimmee Chain of Lakes and the water sources identified in application for consumptive use Permit No. 060410-18.

Section 4. Nothing in this Settlement Agreement shall be construed to prohibit the SFWMD from taking appropriate action on any future permit application for surface water from the Kissimmee River system or the Kissimmee Chain of Lakes or be construed to otherwise affect the SFWMD's authority to protect the water resources or achieve the overall objectives of the SFWMD, pursuant to Chapter 373, Florida Statutes.

Section 5. In order to meet the short-term and long-term needs of water suppliers within Central Florida, St. Cloud, SFWMD, and other participating water suppliers intend to complete a comprehensive water supply plan (the "Plan") for those portions of the area within the SFWMD. The Plan shall identify short and long-term water supply projects and an incremental strategy for developing and permitting these projects such that the needs of St. Cloud are timely met. The Plan and water supply projects identified in the Plan shall be completed within a timeframe that is mutually agreed upon by the participants. SFWMD shall contribute \$500,000.00 towards development of the plan. The District's share of the funding pursuant to the Settlement Agreement shall be subject to appropriation by the District's Governing Board in the 2008-2009 fiscal year budget and encumbered in October 2008 after the adoption of the 2008-2009 budget.

Section 6. Nothing in this Settlement Agreement binds SFWMD to make any specific future permit, rule, or planning decisions. Nothing in this Settlement Agreement is intended to affect the rights of individuals or entities who are not parties to this Settlement Agreement. This Settlement Agreement is not intended in any way to modify St. Cloud's existing consumptive use permits.

Section 7. This Settlement Agreement is executed for the sole purpose of resolving the permit case identified herein and in no way precludes or limits the parties rights to make arguments relevant to issues raised at final hearing in such cases, should one become necessary. This Settlement Agreement shall not be admissible as evidence in any subsequent hearing between the parties.

Section 8. This Settlement Agreement requires the approval of the governing boards of both St. Cloud and the SFWMD.

Section 9. The Effective Date of this Settlement Agreement shall be on the date last executed by the parties hereto as evidenced by the dates recorded under the signatures of the authorized representatives below set forth.

Section 10. The Notice of Rights is hereby attached to this Settlement Agreement as Exhibit B.

ST. CLOUD, FLORIDA

By: Its City Council

By:

Donna Hart

Donna Hart, Mayor 9/4/08

ATTEST:

Linda P. Jaworski
Linda P. Jaworski, City Clerk

Approved as to form:

By:

Daniel F. Mantzaris, City Attorney

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, BY ITS GOVERNING BOARD

By:

Chair Person

ATTEST:

District Clerk

Approved as to form:

By:

Office of Counsel



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

08-0260

08 JAN 16 AM 9:38
DIVISION OF
ADMINISTRATIVE
SERVICES

December 13, 2007

City of St. Cloud
1300 Ninth Street
St. Cloud, FL 34769

Subject: Application No. 060410-18, Saint Cloud Surface Water Treatment Augmentation Facility
Osceola County, S34/T2JS/R30E

Enclosed is a copy of the South Florida Water Management District's staff report covering the permit application referenced therein. It is requested that you read this staff report thoroughly and understand its contents. The recommendations as stated in the staff report will be presented to our Governing Board for consideration on Thursday, December 13, 2007.

Should you wish to object to the staff recommendation or file a petition, please provide written objections, petitions and/or waivers (refer to the attached "Notice of Rights") to:

Elizabeth Veguilla, Deputy Clerk
South Florida Water Management District
Post Office Box 24680
West Palm Beach, Florida 33416-4680

The "Notice of Rights" addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. You are advised, however, to be prepared to defend your position regarding the permit application when it is considered by the Governing Board for final agency action, even if you agree with the staff recommendation, as the Governing Board may take final agency action which differs materially from the proposed agency action.

Please contact the District if you have any questions concerning this matter.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the addressee this 13th day of December, 2007 in accordance with Section 120.60 (3), Florida Statutes.

Sincerely,

Keith R. Smith, P.G., Deputy Director
Water Supply Department

KRS/ja

CERTIFIED # 7005 0390 0005 9817 2503
RETURN RECEIPT REQUESTED



Last Date for Governing Board Action:
December 13, 2007

Water Use Staff Review Summary

2007 JUN 16
11:00 AM
ADMINISTRATIVE
HEARINGS

PERMIT
Subject to Governing
Board Approval

Application Number: 060410-18

Permit Number: 48-01675-W

Project Name: SAINT CLOUD SURFACE WATER TREATMENT AUGMENTATION FACILITY

Water Use Permit Status: PROPOSED

Environmental Resource Permit Status: NOT APPLICABLE.

Right Of Way Permit Status: NOT APPLICABLE

Location: OSCEOLA COUNTY, S34/T25S/R30E

Applicant's Name and Address: CITY OF ST CLOUD
1300 NINTH ST
ST CLOUD, FL 34769

Purpose:

The purpose of this application is to obtain a Water Use Permit for water supply to meet urban irrigation demands to supplement the City of St. Cloud's reclaimed water system. Withdrawals are proposed from East Lake Tohopekaliga via three withdrawal facilities. The project is located in Osceola County, as shown on Exhibits 1 and 2.

Staff Recommendations: Denial

FILED
08 JAN 16 AM 9:38
BOARD OF
ADMINISTRATIVE
HEARINGS

**Water Use
Classification**

Sources: Surface Water from East Lake Tohopekaliga

Recommended Allocation:

Annual Allocation: Maximum 1,825 Million Gallons (MG) Million Gallons
Monthly Allocation: 415.2 (MG)

Proposed Withdrawal Facilities - Surface Water

Source: East Lake Tohopekaliga 3 - 10" X 50 HP X 3100 GPM vertical turbine Pumps

Rated Capacity

<u>Source</u>	<u>Status</u>	<u>GPM</u>	<u>MGM</u>	<u>MGY</u>
East lake Tohopekaliga	Proposed	9,300	401.7	4,888

Project Description

The City of St. Cloud has made application to withdraw water from East Lake Tonopokaliga in order to meet urban irrigation demands by supplementing reclaimed water supplies. This lake is part of the Kissimmee Chain of Lakes and part of the larger Kissimmee River system. These lakes and canals are part of the Kissimmee Chain of Lakes and part of the larger Kissimmee River system. The Kissimmee Chain of Lakes and the Kissimmee River form the regional surface water system and are part of the largest watershed flowing into Lake Okeechobee.

Background Information

The Kissimmee River watershed forms the headwaters of the Kissimmee - Okeechobee - Everglades system and encompasses an area of approximately 3,000 square miles. Restoring ecological integrity to this River is a critical part of the District's overall, Greater Everglades ecosystem restoration program. Restoration of the River's ecological integrity requires reconstruction of the physical form of the River and reestablishment of historic, pre-channelization, hydrologic (i.e. discharge and stage) characteristics.

The United States Congress began efforts to restore the Kissimmee River two decades ago by authorizing various activities such as demonstration programs and feasibility studies. These efforts culminated in 1992 when the U.S. Congress passed the Water Resources Development Act of 1992 authorizing ecosystem restoration of the Kissimmee River and changes to several lakes' operational schedules in the upper basin of the watershed to support the River's restoration. The South Florida Water Management District, as Local Sponsor of the Central and Southern Flood Control Project, executed a Project Cooperation Agreement with the Department of the Army for construction of the Kissimmee River Project in 1994. Section 373.1501, Florida Statutes, declares: "...the Kissimmee River Project ... [is] in the public interest, for a public purpose, and necessary for the public health and welfare." Further, sub-section 373.1501(5), F.S., requires the District, as local sponsor of identified federal projects:

"... to comply with its responsibilities under this chapter and implement project components through appropriate provisions of this chapter. In the development of project components, the district shall: (a) analyze and evaluate all needs to be met in a comprehensive manner and consider all applicable water resource issues, including water supply, water quality, flood protection, threatened and endangered species, and other natural system and habitat needs;...."

The magnitude of the state and federal efforts to restore the Kissimmee River is extensive; information on this topic is found, in summary form, in Chapter 11 of the District's South Florida Environmental Report. The numerous state, federal, and local government coordinated initiatives are summarized in this Chapter. A general overview follows, below. Five of the more significant programs include: the Kissimmee River Restoration Project with the Kissimmee River Headwaters Revitalization Project, the Kissimmee River Restoration Evaluation Program, the Kissimmee Basin Modeling and Operations Study, the Kissimmee Chain of Lakes Long-Term Management Plan and the Upper Kissimmee River Basin Water Supply Plan. A number of activities are associated with each of these projects and include, for example, such activities as ecosystem restoration, restoration evaluation, aquatic plant

management, land management, water quality improvement, and water supply planning.

River restoration deals with modifications to canal C-38 and to the water control structures in the lower basin. The Headwaters Revitalization Project authorized modifications to lake regulation schedules for Lakes Kissimmee, Hatchineha, Cypress, and Tiger in the Upper Kissimmee Basin to provide increased seasonal water storage so that releases to the Kissimmee River will be made more gradually and follow a more natural seasonal distribution. Recreating the natural seasonality of flow is essential to meeting the goals of the Kissimmee River Restoration Project. Headwaters Revitalization will have the additional benefit of increasing the quality and quantity of wetland habitat around the four upper basin lakes mentioned above. Specific goals for the projects include reducing the number of days that no flow in the restored channel of the Kissimmee River to zero cubic feet per second in a water year, and establishing annual recession events. Both of these goals require the storage and release of water obtained from the upper portion of the regional watershed.

Also, the Kissimmee River restoration will require water to be stored and released in the Kissimmee Chain of Lakes and its tributaries Boggy, Shingle and Reedy Creeks. In order to assess the quantity and timing of water required for the restoration, and how much would be available for consumptive uses, the District is in the process of preparing the Kissimmee Chain of Lakes Long-Term Management Plan. This Plan will provide recommendations to balance and manage the multiple environmental, social, economic and water supply demands being placed on the Chain of Lakes and the Kissimmee River. The Long-Term Management Plan is being completed as part of a multi-agency effort that includes participation by federal, state, and local governments. This Plan, when developed in late 2008 or early 2009, is expected to recommend River and lake structure management options to the United States Army Corps of Engineers that will best balance the multiple demands on the lake and River system and help define water supply availability for consumptive uses. Until such time as the Long-Term Management Plan and new lake operational schedule, which is an important component of the management plan, is approved and effective, the evaluation of potential impacts of proposed consumptive uses against the current system operational schedule has limited value in predicting long term impacts and cannot, therefore, serve as a basis for providing reasonable assurances.

Currently, significant portions of the Kissimmee River have been restored while other restoration segments are under construction; two of five construction phases to restore ecological integrity to the Kissimmee River have been completed. Phase I construction was completed in 2001 through backfilling of approximately 7.5 miles of the C-38 canal, resulting in the reestablishment of 15 miles of contiguous River channel. Phase IVA backfilled an additional 1.9 miles to the north of Phase I and was completed in September 2007. This Phase reestablished an additional 4 miles of River channel, bringing the overall length of contiguous River channel to almost 20 miles.

The physically restored River section has experienced continuous flow since 2001, except for a 252-day period of no-flow during the 2006-2007 drought. Positive response to reestablished flow have been documented for several physical, physiochemical, and biotic components of the ecosystem and include: (1) reestablishment of sandbars, (2) increased dissolved oxygen regimes in the river channel, (3) reduced aerial coverage of littoral vegetation, (4) increased density of passive filter-feeding invertebrates that make up the base of the food chain, and (5) increased densities of wading birds using the floodplain.

However, attainment of the River restoration requires both restoration of the physical form of the river (backfilling the C-38 canal and linkage of remnant river runs) and applying the appropriate hydrology to river/floodplain system. The Headwaters Revitalization Schedule will deliver water to the Kalamazoo River and the floodplain via water control structure S-65 in a manner that mimics historic hydrologic conditions and is scheduled for implementation during the last construction phase in 2010-2012.

Impact Assessments

Existing Legal Users East Lake Tohopekaliga

Information provided by the applicant indicates the water level in the lake will not be depressed below 0.1 foot below regulation schedule, therefore the potential for harm to occur to existing legal users of East Lake Tohopekaliga as a result of the withdrawal of the recommended allocation is considered minimal.

Legal Domestic Users East Lake Tohopekaliga

Information provided by the applicant indicates the water level in the lake will not be depressed below 0.1 foot below regulation schedule, therefore the water level in the lake will not be depressed below 0.1 foot below regulation schedule, therefore the potential for harm to occur to legal domestic users as a result of the withdrawal of the recommended allocation is considered minimal.

Saline Water Intrusion East Lake Tohopekaliga

The nearest source of saline surface water is approximately 50 miles. Therefore the potential for saline water intrusion or upconing to occur as a result of the withdrawal of the recommended allocation is considered minimal.

Wetlands

East Lake Tohopekaliga

Wetlands are located along portions of the lake's shoreline. The water level will not be depressed below 0.1 foot below the regulation schedule, therefore the potential for harm to occur to wetlands as a result of the withdrawal of the recommended allocation is considered minimal.

Source Of Pollution East Lake Tohopekaliga

There are no known sources of pollution in the immediate vicinity of the lake where depressing the water could cause movement of contaminants. Therefore the potential for movement of contaminants, if present, from known pollution sources as a result of the withdrawal of the recommended allocation is considered minimal.

Additional Information

DEMONSTRATION OF DEMAND

The City of St. Cloud has requested 5 MGD of surface water from East Lake Tohopekaliga to augment their reuse water system.

The City began its public access reuse system in 1991. Initially established as an unrestricted use system, the City of St. Cloud has since implemented one of the most aggressive reuse water conservation and management efforts in the State to maximize efficient reuse water utilization. Water conservation rates, pressure management and odd/even watering restrictions are part of their reuse water management plan. At the same time the City has also aggressively expanded the number of customers in its system. The result is a reuse system that maximizes overall reuse water distribution, but has also made it prone to the effect of droughts. The City has constructed a 70 million gallon storage facility and has proposed an additional 90 million gallon storage pond to help moderate the impact of extended droughts. During the period of 2004 through 2006 the City met average reuse water demands, but experienced daily reuse peak demand shortfalls near 1.0 mgd during extended drought periods. The City has an immediate need to augment its reuse system to meet these peak demands.

The City's reuse water customer base is approximately 80% residential and approximately 20% commercial/institutional accounts. There are currently about 2,600 residential reuse water accounts, representing about 15% of the City's total residential customers. The City has experienced growth of its residential reuse water in excess of 25% annually due to high growth in new residential developments. The anticipated residential customer base is 2,800 customers by 2009. The City expects that it will continue to experience periodic daily peak flow shortfalls near 1.0 mgd in the reuse system as it attempts to continue maximizing average use. The City is requesting five mgd average and 20 mgd peak of surface water from East Lake Tohopekaliga during high lake level conditions to fill its 160 million gallon storage facilities in anticipation of drought conditions during future anticipated reuse water system growth through 2009. It is estimated that the pond storage would only need to be refilled two to three times annually to maintain the City's current and project reuse water system.

PUBLIC INTEREST

The present and projected needs of the supplying area include the Kissimmee River Restoration Project, wetlands and other surface water bodies, and other potential, regional water supply projects relying on the Kissimmee River. The state and federally authorized Kissimmee River Restoration Project requires reestablishment of the River's hydrologic conditions to restore the River's ecological integrity. The quantification of these demands is being developed as a part of the comprehensive River restoration Project described above. Given the public's interest in achieving restoration of the Kissimmee River's ecological integrity and the numerous on-going and coordinated initiatives to achieve this goal and identify water available for water supply, it is not consistent with the public interest to approve the subject permit application.

Moreover, the Kissimmee River has been identified as a potential, future alternative water supply water source for future, potable demands within the Central Florida region. Numerous consumptive use permittees, including this applicant, have been required in

consumptive use permit conditions to assess the feasibility of this supply source for public water supply purposes. The District has executed an Agreement with these entities to assess the feasibility of the River and potential surface water reservoirs as a future source.

For these reasons, the applicant has not provided reasonable assurances that the proposed use of water is consistent with the public interest.

LOWEST QUALITY SOURCE

There are a variety of alternative water sources available to meet the proposed irrigation and cooling water demands. Section 3.2 of the Basis of Review states, in part: "Consideration must be given to the availability of the lowest quality water, which is acceptable for the intended use. If a water source of lower quality is available and is feasible for all or a portion of an Applicant's use, this lower quality water must be used." The applicant has not provided reasonable assurances that surface water from the Kissimmee River Basin is the lowest quality water available for the proposed irrigation uses.

Project Name:
FACILITY

SAINT CLOUD SURFACE WATER TREATMENT AUGMENTATION

00 JAN 16 AM 9:09
ADMINISTRATIVE
HEARINGS

Application Number: 060410-18

Permit Number: 49-01675-W

DRAFT
Subject to Governing
Board Approval

Recommendations:

Staff recommends denial of a Water Use Permit for application No. 060410-18 for a project known as St. Cloud Surface Water Treatment Augmentation. The applicant has not provided reasonable assurance the proposed withdrawals meet the conditions of issuance listed in section 373.223, Florida Statutes, and the Basis of Review.

Application Reviewer: George M. Ogden, Jr. Date: 12/12/07
George M. Ogden, Jr. P.G.

Supervisor: Stacy Colie Date: 12/12/07
For Sharon Meinberg, P.G.

Water Use Division: Keith R. Smith Date: 12/12/07
Keith R. Smith, P.G.

NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: 1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or 2) within 14 days of service of an Administrative Order pursuant to Subsection 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of either written notice through mail, or electronic mail, or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action. Any person who receives written notice of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

Filing Instructions

The Petition must be filed with the Office of the District Clerk of the SFWMD. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** Any person wishing to receive a clerked copy with the date and time stamped must provide an additional copy. A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Any document received by the office of the SFWMD Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the SFWMD Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must be delivered to the Office of the SFWMD Clerk. **Delivery of a petition to the SFWMD's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the SFWMD's security officer to contact the Clerk's office.** An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by facsimile must be transmitted to the SFWMD Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the SFWMD Clerk receives the complete document.



Initiation of an Administrative Hearing

Pursuant to Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 and 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, District file number or any other SFWMD identification number, if known.
2. The name, address and telephone number of the petitioner and petitioner's representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the SFWMD's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the SFWMD's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the SFWMD to take with respect to the SFWMD's proposed action.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and that the SFWMD and any other parties agree to or oppose the extension. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

If the District's Governing Board takes action with substantially different impacts on water resources from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law.

Mediation

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Sections 120.60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.