

## TABLE OF CONTENTS

### RIGHT OF WAY OCCUPANCY CONSENT AGENDA FOR GOVERNING BOARD APPROVAL

FEBRUARY 12, 2009

	<u>PAGES</u>
<b>I. RIGHT OF WAY OCCUPANCY NEW PERMITS:</b>	<b>1</b>
Governing Board action is required for routine requests for permits which conform to applicable rules for utilization of Works and Lands of the District. Items are placed on this Consent Agenda when the staff's recommendation is for <u>approval</u> .	
<b>II. RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS:</b>	<b>2</b>
Governing Board action is required for routine requests for permits which conform to applicable rules for utilization of Works and Lands of the District. Items are placed on this Consent Agenda when the staff's recommendation is for <u>approval</u> .	
<b>III. RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA:</b>	<b>3</b>
Governing Board action is required on petitions received requesting a waiver of District criteria. Section 120.542, F.S. and Rule 28-104.002, F.A.C., requires agencies to <u>grant variances and waivers</u> to their own rules when a person subject to the rules files a petition and demonstrates that he or she can achieve, or has achieved, the purpose of the underlying statute by other means <u>and</u> when application of rule would create a substantial hardship or would violate principles of fairness. A "substantial hardship" is defined as a demonstrated economic, technological, legal or other type of hardship to the person requesting the waiver. "Principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. A "waiver" is defined as an agency decision not to apply all or part of a rule to the person subject to the rule.	

**RIGHT OF WAY OCCUPANCY NEW PERMITS**

1. GARY GALIMIDI & SHERRY D'AGOSTINO Permit Number 13389  
Palm Beach County Appl. No. 08-1229-1  
(Fee)

AUTHORIZING: EXISTING PREVIOUSLY-AUTHORIZED 75.64' SEAWALL, DOCK, BOATLIFT, LIGHTS AND ELECTRICAL SERVICE WITHIN THE NORTH RIGHT OF WAY OF C-15 AT THE REAR OF 738 AVOCET ROAD (LOT 16, TROPIC PALMS PLAT NO. 1 SUBDIVISION).

LAST DATE FOR BOARD ACTION: MARCH 12, 2009

- 
2. SOUTH FLORIDA SHOOTING GROUNDS, LLC Permit Number 13386  
St. Lucie County Appl. No. 08-0716-2  
(Fee)

AUTHORIZING: 2 EXISTING 60" CORRUGATED METAL PIPES WITH RISERS THROUGH THE SOUTH RIGHT OF WAY OF C-23 LOCATED 1.5 AND 1.8 MILES, RESPECTIVELY, WEST OF I-95 BRIDGES.

LAST DATE FOR BOARD ACTION: FEBRUARY 12, 2009

- 
3. MICHAEL & MARLENE IADAROLA Permit Number 13391  
Collier County Appl. No. 08-1209-1  
(Cooperative Agreement)

AUTHORIZING: EXISTING DOCK WITHIN THE NORTH RIGHT OF WAY OF GOLDEN GATE MAIN CANAL LOCATED AT THE REAR OF 769 21<sup>ST</sup> STREET SOUTHWEST (GOLDEN GATE ESTATES LOT 33, UNIT 8).

LAST DATE FOR BOARD ACTION: FEBRUARY 12, 2009

---



**RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH  
WAIVER OF DISTRICT CRITERIA**

1. Consideration of a request by **Paul Venturelli** (Application Number 08-1205-1M, Permit (MOD) Number 8134) for the issuance of a modification to Right of Way Occupancy Permit Number 8134 to allow existing landscaping consisting of palm trees, low lying planters and a paver stairway/walkway within the northerly right of way of C-51 at the rear of 246 Arlington Road to remain. Location: Palm Beach County, Section 15, Township 44 South, Range 43 East.

The applicant's request for Waiver of the District's criteria which governs the placement of semi-permanent/permanent above ground encroachments within 40 feet of the top of the canal bank within Works or Lands of the District is based on principles of fairness. The applicant asserts that similar encroachments have been permitted to other adjacent landowners and the District has very limited overbank which is only accessible by water. The applicant's residence is located downstream of the District's Water Control Structure S-155. The District's Operations Resource Management staff has determined that the existing encroachments will not significantly interfere with the District's access and ability to perform necessary construction, alteration, operation, so the purpose of the underlying statute will be achieved.

The applicant's petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to Section 120.542(6), F.S. notice of the petition was provided to the Department of State and was published in *Volume 34, Number 51* of the *Florida Administrative Weekly* on *December 19, 2008*. No public comments were received.

Therefore, staff recommends **approval** of the issuance of Right of Way Occupancy Permit (MOD) Number 8134 and **approval** of the petition for Waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground facilities within 40 feet of the top of the canal bank within Works or Lands of the District.

(Fee)

---