SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RESOLUTION NO. 2008 _____

A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE DISTRICT STAFF TO FILE SUIT, 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 K AND M NURSERY, INC., WEST BOYNTON FARMS, LLC, AND ANY OTHER APPROPRIATE OR NECESSARY PARTIES, IN PALM BEACH COUNTY CIRCUIT COURT OR OTHER APPROPRIATE FORUM, REGARDING THE PROPERTY LOCATED IN SECTION 14, TOWNSHIP 45, RANGE 41, PALM BEACH COUNTY, PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, on or about March 15, 2007, the Governing Board executed consent agreement Order SWFMD 2007 53 CO ERP to address previous violations and ensure that the respondents obtained the proper Environmental Resource Permit (ERP) and Consumptive Use Permit (CUP).

WHEREAS, on or about October 29, 2007, SFWMD staff observed additional activities constituting violations onsite, including offsite discharge.

WHEREAS, the District sent a Pre-Litigation Demand Letter on October 30, 2007, emphasizing the need for the completion of the permit application and adherence to the consent agreement. The District received written response to the pre-litigation letter on November 15, 2007.

WHEREAS, on January 23, 2008, District compliance staff again observed offsite discharge and subsequently sent a Cease and Desist Notice of Violation on January 25, 2008.

WHEREAS, K and M Nursery and Boynton Farms, LLC have failed to obtain an ERP and to adequately respond to and resolve the situation caused by their actions, **now therefore**

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

Section 1 The Governing Board of the South Florida Water Management District hereby authorizes District Staff to file suit, 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 K and M Nursery, Inc., West Boynton Farms, LLC, and any other appropriate or necessary parties, in the Palm Beach County Circuit Court or the appropriate forum, regarding the property located in Section 14, Township , Range 30 East, Highlands County.

Section 2 This resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this ____ day of _____, 2008.

Approved as to form:

BY: _____

Office of Counsel

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

By: _____

Chairperson

ATTEST:

_____

District Clerk

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