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**REGULATORY ITEMS FOR GOVERNING BOARD ACTION**  
**November 13, 2009**

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## REGULATION AGENDA ITEMS

**PERMIT DENIAL:** Those listed on the consent agenda are routine in nature and non-controversial. Such denials are typically due to failure of applicant to complete the application. Unique or controversial projects or those requiring a policy decision are normally listed as discussion items. Permit types include:

**Environmental Resource (ERP):** Permits that consider such factors as the storage of storm water to prevent flooding of a project (upstream or downstream projects); the treatment of stormwater prior to discharge from the site to remove pollutants; and the protection of wetlands on the project site.

**Surface Water Management:** Permits for drainage systems, which address flood protection, water quality, and environmental protection of wetlands.

**Water Use:** Permits for the use of ground and/or surface water from wells, canals, or lakes.

**Lake Okeechobee Works of the District:** Permits that set concentration limits for total phosphorus in surface discharge from individual parcels in the Lake Okeechobee Basin.

**EAA Works of the District:** Permits to reduce the total phosphorus load from the EAA by 25 percent in water discharged to Works of the District.

**Wetland Resource:** Permits for dredge and fill activities within Waters of the State and their associated wetlands.

**ADMINISTRATIVE HEARING:** A case in litigation conducted pursuant to the Administrative Procedures Act (Chapter 120, Florida Statutes) involving the determination of a suit upon its merits. Administrative hearings provide for a timely and cost effective dispute resolution forum for interested persons objecting to agency action.

**FINAL ORDER:** The Administrative Procedures Act requires the District to timely render a final order for an administrative hearing after the hearing officer submits a recommended order. The final order must be in writing and include findings of fact and conclusions of law.

**CONSENT AGREEMENT:** A voluntary contractual agreement between the District and a party in dispute which legally binds the parties to the terms and conditions contained in the agreement. Normally used as a vehicle to outline the terms and conditions regarding settlement of an enforcement action.

**CONSERVATION EASEMENT:** A perpetual fee ownership in real property that retains such land or water area in its predominantly natural, scenic, open, or wooded condition. Conservation easements generally limit the use of the conservation area to passive, recreational activities such as hiking and bicycling. The District will consider as mitigation for the adverse impacts to wetlands or other surface waters functions caused by a proposed project, the preservation, by conservation easement, of wetland ecosystems.

**TECHNICAL DENIAL:** This action normally takes place when a proposed project design does not meet water management criteria or the applicant does not supply information necessary to complete the technical review of an application.

**EMERGENCY ORDER and AUTHORIZATION:** An immediate final order issued without notice by the Executive Director, with the concurrence and advice of the Governing Board, pursuant to (Section 373.119(2), Florida Statutes, when a situation arises that requires timely action to protect the public health, safety or welfare and other resources enumerated by rule and statute.

**MEMORANDUM OF AGREEMENT/UNDERSTANDING:** A contractual arrangement between the District and a named party or parties. This instrument typically is used to define or explain parameters of a long-term relationship and may establish certain procedures or joint operating decisions.

**PETITION:** An objection in writing to the District, requesting either a formal or an informal administrative hearing, regarding an agency action or a proposed agency action. Usually a petition filed pursuant to Chapter 120, Florida Statutes, challenges agency action, a permit, or a rule. Virtually all agency action is subject to petition by substantially affected persons.

**SEMINOLE TRIBE WORK PLAN:** The District and the Seminole Indians signed a Water Use Compact in 1987. Under the compact, annual work plans are submitted to the District for review and approval. This plan keeps the District informed about the tribe plans for use of their land and the natural resources. Although this is not a permit, the staff has water resource related input to this plan.

**SITE CERTIFICATIONS:** Certain types of projects (power plants, transmission lines, etc.) are permitted by the Governor and Cabinet under special one-stop permitting processes that supercede normal District permits. The Water Management Districts, DEP, DCA, FGFWFC, and other public agencies are mandatory participants. DEP usually coordinates these processes for the Governor and Cabinet.

**VARIANCES FROM, OR WAIVERS OF, PERMIT CRITERIA:** The Florida Administrative Procedures Act provides that persons subject to an agency rule may petition the agency for a variance from, or waiver of, a permitting rule. The Governing Board may grant a petition for variance or waiver when the petitioner demonstrates that 1) the purpose of the underlying statute will be or has been achieved by other means and, 2) when application of the rule would create a substantial hardship or would violate principles of fairness.

**DENIALS**

**COLLIER COUNTY**

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1. MYSTIQUE  
WATERWAYS JOINT VENTURE VII  
SEC 3 TWP 50S RGE 26E

APPL. NO. 061116-12  
PERMIT NO. N/A  
ACREAGE: 16.80  
LAND USE: RESIDENTIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (NEW CONSTRUCTION/OPERATION)  
RECEIVING BODY: ON-SITE WETLANDS  
PRIMARY ISSUES: FINAL ORDER TO DENY DUE TO APPLICANT'S FAILURE TO COMPLETE  
APPLICATION  
LAST DATE FOR BOARD ACTION: NOVEMBER 13, 2009

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**DENIALS**

**HENDRY COUNTY**

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1. SECT 15 FARM  
HENDRY TURF  
SEC 15 TWP 46S RGE 34E

APPL. NO. 090223-21  
PERMIT NO. 26-00688-W  
ACREAGE: 159.80  
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE  
WATER SOURCE: UNKNOWN  
ALLOCATION: UNKNOWN  
PRIMARY ISSUES: FINAL ORDER TO DENY DUE TO APPLICANT'S FAILURE TO COMPLETE  
APPLICATION  
LAST DATE FOR BOARD ACTION: NOVEMBER 13, 2009

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**DENIALS**

**LEE COUNTY**

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1. BONITA RIVERWALK APPL. NO. 060728-8  
BONITA RIVERWALK LLC PERMIT NO. N/A  
SEC 33 TWP 47S RGE 25E ACREAGE: 10.49  
LAND USE: RESIDENTIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (NEW GENERAL PERMIT)  
RECEIVING BODY: UNKNOWN  
PRIMARY ISSUES: FINAL ORDER TO DENY DUE TO APPLICANT'S FAILURE TO COMPLETE APPLICATION  
LAST DATE FOR BOARD ACTION: NOVEMBER 13, 2009

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2. ROMANO COMMERCIAL BUILDING APPL. NO. 070703-3  
PASQUALE ROMANO PERMIT NO. 36-00767-S  
SEC 12 TWP 44S RGE 23E ACREAGE: .62  
LAND USE: INDUSTRIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (GENERAL PERMIT MODIFICATION)  
RECEIVING BODY: MASTER SURFACE WATER MANAGEMENT SYSTEM  
PRIMARY ISSUES: FINAL ORDER TO DENY DUE TO APPLICANT'S FAILURE TO COMPLETE APPLICATION  
LAST DATE FOR BOARD ACTION: NOVEMBER 13, 2009

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3. WATER FRONT VIEW TOWER APPL. NO. 061212-18  
FISHER REIF INTERNATIONAL LLC PERMIT NO. 36-00383-S  
SEC 29 TWP 45S RGE 24E ACREAGE: 2.97  
LAND USE: RESIDENTIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (GENERAL PERMIT MODIFICATION)  
RECEIVING BODY: UNKNOWN  
PRIMARY ISSUES: FINAL ORDER TO DENY DUE TO APPLICANT'S FAILURE TO COMPLETE APPLICATION  
LAST DATE FOR BOARD ACTION: NOVEMBER 13, 2009

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**CONSENT AGREEMENTS**

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1. RESPONDENT: VULCAN MATERIAL COMPANY  
PROJECT: HARPER BORHTERS, INC.

SEC 11 TWP 46S RGE 26E LEE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WORKS IN WETLANDS

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2. RESPONDENT: CITY OF HOMESTEAD  
PROJECT: CITY OF HOMESTEAD

SEC 20 TWP 57S RGE 38E MIAMI-DADE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING EXCESSIVE PUBLIC WATER SUPPLY USE

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3. RESPONDENT: BRIAN BLOCKER  
PROJECT: BLOCKER PROPERTY

SEC 34 TWP 46S RGE 28E COLLIER COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING ALTERATION OF WETLANDS

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4. RESPONDENT: FLORIDA GULF COAST UNIVERSITY  
PROJECT: FLORIDA GULF COAST UNIVERSITY SOLAR FIELD

SEC 13 TWP 46S RGE 25E LEE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING NON COMPLIANCE WITH PERMIT  
CONDITIONS

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5. RESPONDENT: TUSCANY GARDENS CONDOMINIUM ASSOCIATION  
PROJECT: MAJORCA LUXURY APARTMENTS/TUSCANY GARDENS

SEC 20 TWP 57S RGE 38E LEE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WATER USE

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6. RESPONDENT: EUGENE GRANT AND COMPANY  
PROJECT: EUGENE GRANT AND COMPANY, INC.

SEC 32 TWP 57S RGE 38E MIAMI-DADE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WATER USE

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7. RESPONDENT: TEMPUS PALMS INTERNATIONAL, LTD.  
PROJECT: TEMPUS PALMS PHASE 1 COMMON AREA

SEC 15 TWP 25S RGE 27E OSCEOLA COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING VIOLATION OF WATER USE PERMIT  
CONDITIONS

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**CONSENT AGREEMENTS**

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8. RESPONDENT: ARNOLD GROVES AND RANCH, LTD.  
PROJECT: ARNOLD GROVES AND RANCH

SEC 19 TWP 24S RGE 27E ORANGE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WATER USE

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9. RESPONDENT: MERITS HOLDINGS COMPANY, INC.  
PROJECT: MERITS HEALTH PRODUCTS COMPANY

SEC 8 TWP 44S RGE 24E LEE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING FAILURE TO SUBMIT CONSTRUCTION  
COMPLETION CERTIFICATION

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**CONSERVATION EASEMENT AMENDMENTS AND RELEASES**

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1. PERMITTEE: GORDON RIVER WATER QUALITY PARK  
PROJECT: COLLIER COUNTY STORMWATER MANAGEMENT DEPARTMENT

APPROVE A PARTIAL RELEASE OF A RECORDED CONSERVATION EASEMENT OVER 12.5 ACRES OF PRESERVE AREA WITHIN THE RECREATIONAL PARK AND EDUCATION FACILITY. THE ORIGINAL APPLICATION NUMBER IS 060816-7 AND THE PERMIT NUMBER IS 11-00820-S-02.

THE AMENDMENT OF CONSERVATION EASEMENT REFLECTS THE REMOVAL OF TWO SMALL PARCELS TOTALING APPROXIMATELY 16,067 SQUARE FEET (0.37 ACRES) AS IT WAS DETERMINED THAT THE CONSERVATION EASEMENT OVERLAPS AN EXISTING FLORIDA POWER AND LIGHT EASEMENT. THE ACREAGE REMOVAL RESULTS IN A DECREASE TO THE PRESERVE AREA FROM 12.5 ACRES TO 12.13 ACRES. THIS MODIFICATION REQUEST IS REFLECTED IN THE CURRENT APPLICATION (#080111-26. COMPENSATION FOR THE REMOVAL OF 0.37 ACRES FROM PORTIONS OF UPLAND BUFFER AND WETLAND E IS ACCOUNTED FOR UNDER THE EXCESS MITIGATION ASSESSED UNDER THE ORIGINAL APPLICATION.

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2. PERMITTEE: MARKET CENTER  
PROJECT: BENDERSON 1995 TRUST AND WRI-I ASSOCIATES LTD

APPROVE AN AMENDMENT TO THE RECORDED CONSERVATION EASEMENT OVER 27.12 ACRES OF PRESERVE AREA WITHIN THE COMMERCIAL DEVELOPMENT THE ORIGINAL APPLICATION NUMBER IS 990715-10 AND THE PERMIT NUMBER IS 11-01909-P.

THE AMENDMENT OF CONSERVATION EASEMENT REFLECTS THE RELEASE OF 0.13 ACRE FOR A DRAINAGE EASEMENT FOR THE ASSOCIATED DAVIS BOULEVARD POND SITE FROM CONSERVATION TRACT 2 (C-2). THIS RESULTS IN A DECREASE TO THE PRESERVE AREA FROM 27.12 ACRES TO 26.99 ACRES. COMPENSATION FOR THE RELEASE OF 0.13 ACRE FROM C-2 HAS BEEN PROPOSED UNDER THE MARKET CENTER MODIFICATION APPLICATION 090427-12. THE BOARD APPROVED THE REMOVAL OF 0.17 ACRES FROM CONSERVATION TRACT C-1 IN AUGUST; HOWEVER, THE 0.13 ACRE PARCEL WAS INADVERTENTLY LEFT OUT OF THE PREVIOUS REQUEST. THE RESULT OF BOTH OF THESE RELEASES IS 26.82 ACRES OF PRESERVE REMAINING WITHIN THE PERMIT AREA.

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CONSERVATION EASEMENT AMENDMENTS AND RELEASES

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3. PERMITTEE: BARRON COLLIER COMPANY  
PROJECT: WINDING CYPRESS

COLLIER COUNTY

APPROVE THE RELEASE OF A 1030 ACRE CONSERVATION EASEMENT FOR A PROJECT KNOWN AS WINDING CYPRESS IN COLLIER COUNTY. IN AUGUST, 2003, THE GOVERNING BOARD ISSUED PERMIT NUMBER 11-02132-P FOR A GOLFING AND RESIDENTIAL DEVELOPMENT , THE PERMIT CONTAINED A CONSERVATION EASEMENT OVER AN OFFSITE MITIGATION PARCEL WHERE A PORTION OF THE MITIGATION WAS TO TAKE PLACE. PARAGRAPH 13 OF THE CONSERVATION EASEMENT STATED THAT THE EASEMENT "SHALL TERMINATE UPON THE CONVEYANCE OF THE [CONSERVATION EASEMENT LAND] TO THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA TOGETHER WITH AN ACCESS AGREEMENT, ACCEPTABLE TO THE DISTRICT, ALLOWING GRANTOR CONTINUED ACCESS TO THE PROPERTY FOR THE PURPOSES OF COMPLYING WITH ITS PERMIT CONDITIONS".

THE CONSERVATION EASEMENT LAND WAS CONVEYED TO THE INTERNAL IMPROVEMENT TRUST FUND ON SEPTEMBER 25, 2009 THE PERMITTEE / GRANTOR HAS ENTERED INTO AN ACCESS AGREEMENT ALLOWING THE PERMITTEE / GRANTOR ACCESS TO THE PROPERTY TO COMPLY WITH ITS PERMIT CONDITIONS IN THE MITIGATION AREA. THIS AGREEMENT HAS BEEN REVIEWED BY AND IS ACCEPTABLE TO THE DISTRICT STAFF. THEREFORE BY ITS OWN PROVISIONS THE CONSERVATION EASEMENT HAS TERMINATED.

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**WATER SHORTAGE VARIANCES**

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1. PERMITTEE: BONNIE RIPPINGILLE  
PROJECT: BONNIE RIPPINGILLE

PERMIT NO. N/A

COLLIER COUNTY

FINAL ORDER CONCURRING WITH THE GRANTING OF A TEMPORARY VARIANCE FROM WATER  
SHORTAGE RESTRICTIONS IMPOSED WITHIN THE BOUNDARIES OF THE SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT

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**SEMINOLE TRIBE WORK PLANS**

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1. CONCUR WITH THE FIRST AMENDMENT TO THE TWENTY SECOND ANNUAL WORKPLAN FOR THE SEMINOLE TRIBE OF FLORIDA
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