

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR LEE COUNTY, FLORIDA

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT,

Petitioner

v.

RICHARD H. CAPEN, et al.,

Respondents.

CASE NO.: 04-CA-1657

TRACT NO.: 003-779

**STIPULATION FOR FINAL JUDGMENT AND ATTACHED STIPULATED
FINAL JUDGMENT FOR TRACT NO. 003-779**

The Petitioner, **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**, (hereinafter "SFWMD" or "District" or "Petitioner"), by and through its undersigned attorney, and the Respondents, DOROTHY JOAN RINKENBACK and ALBERT G. RINKENBACK (hereinafter collectively referred to as "Respondents"), by and through Respondents' undersigned attorney, hereby stipulate and agree as follows, subject to the approval of the Governing Board of the District at its meeting scheduled to take place on or about January 14, 2009, or as soon thereafter as the Governing Board can consider the matter, wherein the undersigned will recommend approval by the Governing Board:

1. On or about June 24, 2004 an Order of Taking was entered in the above referenced case pertaining to numerous tracts, including Tract No. 003-779, described in the attached and incorporated Exhibit "A". On July 16, 2004, an Amended Agreed Order Granting Stipulated Order of Taking was also entered in the above referenced case

pertaining to numerous tracts, including Tract No. 003-779.

2. On or about July 9, 2004, the District filed its Notice of Deposit and in fact deposited on said date the total sum of Seventy Two Thousand Dollars (\$72,000.00) for Tract No. 003-779, whereby fee simple title and all interests in Respondents' property vested in the District. Respondents have already withdrawn said funds less taxes owed the Tax Collector and/or any applicable liens, and District is entitled to a credit for the \$72,000 it previously deposited.

3. The District and Respondents hereby stipulate and agree that a valuation trial with respect to Respondents' tract and property interest is no longer necessary. Respondents waive any and all rights to a valuation trial/hearing by way of the parties full, complete and final settlement of this matter herein, and this agreement by Respondents for the Court to enter the Stipulated Final Judgment set forth below. The District and Respondents further agree that the total compensation paid by the District is full, just, and reasonable for all parties concerned. The parties agree that this Stipulation may be executed in counterparts.

4. The District and Respondents agree to a total gross settlement amount of TWO HUNDRED THIRTY THREE THOUSAND FIVE HUNDRED NINETY DOLLARS (\$233,590.00) for all of the Respondents' land, structures, improvements, prejudgment or other interest claims, real or personal property of any kind, personal belongings, other property interests or claims of any type, including, but not limited to, mobile homes, mining interests, fill dirt, aggregate, minerals, earth materials, mining business claims, and/or any other damages and/or claims involving Tract No. 003-779, and includes all claims for statutory or other attorneys' fees, as well as experts' fees and court or other costs of any

kind. Accordingly, the District shall pay the Respondent the additional net sum of ONE HUNDRED SIXTY ONE THOUSAND FIVE HUNDRED NINETY DOLLARS (\$161,590.00), which is the net amount of the total settlement after deducting the \$72,000.00 previously paid into the Court Registry in connection with the entry of the Order of Taking.

5. The District shall deposit the balance due in the total sum of ONE HUNDRED SIXTY ONE THOUSAND FIVE HUNDRED NINETY DOLLARS (\$161,590.00) which is inclusive of all claims for land, improvements, structures, prejudgment or other interest claims, real or personal property of any kind, personal belongings, other property interests or claims of any type, including, but not limited to, mobile homes, mining interests, fill dirt, aggregate, minerals, earth materials, mining business claims, and/or any other damages and/or claims involving Tract No. 003-779, as well as any claims for attorneys' fees, experts' fees and costs, or any other claims, pursuant to paragraph four (4) above, with the Court Registry within twenty (20) days of the entry of the attached Stipulated Final Judgment as and for full and final payment as set forth above. The Respondents, by and through their counsel, shall thereafter withdraw said funds, less taxes owed the tax collector and/or any applicable liens, for proper payment and disbursement.

6. As a material consideration for this Stipulated Settlement, Respondents agree to discharge/terminate/quit claim or otherwise extinguish by appropriate legal instrument the Grant of Easement for Ingress and Egress, recorded at OR Book 03603, Page 0039 of the Official Records of Lee County, Florida, and shall do so by executing and delivering to the District the instrument attached and incorporated as Exhibit "B". Said instrument shall be fully executed and notarized by Respondents at the same time as the executing of this Stipulation and returned to the District's undersigned counsel who will hold it in escrow and

not record it until after the Governing Board of the District approves this Stipulation. After the Governing Board of the District approves this Stipulation, the undersigned counsel will be free to release the instrument from escrow and proceed with recording it in the public records of Lee County, Florida.

7. The Respondents, by and through their undersigned counsel, hereby stipulate and represent that they have not assigned any rights concerning the property and/or compensation for their property interest. The Respondents, by and through their undersigned counsel, waive any and all claims against the District as to Tract No. 003-779, (including the State of Florida, the U.S. Department of Interior, the U.S. Army Corps of Engineers, and any of their and the District's employees, agents, legal representatives, attorneys, Governing Board Members, and their successor and assigns), including but not limited to claims for land, improvements, structures, mobile homes, prejudgment or other interest claims, real or personal property of any kind, personal belongings, other property interests or claims of any type, including, but not limited to, mining interests, fill dirt, aggregate, minerals, earth materials, mining business claims, and/or any other damages and/or claims involving Tract No. 003-779, as well as any claims for attorneys' fees, experts' fees and costs, or any other claims, and fully release the District and the above-referenced included governmental parties from any and all such claims. The parties agree to submit the attached Stipulated Final Judgment for entry by the Court after approval by the District's Governing Board.

Agreed to this _____ day of _____, 2009.

Edward Artau
Florida Bar No.: 764353
As Counsel for
SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
Office of Counsel
3301 Gun Club Road, MSC 1410
West Palm Beach, FL 33406
(561) 682-6431 / Fax (561) 682-6276

S. William Moore
Brigham Moore LLP
As Counsel for and on behalf of Respondents
Dorothy and Albert Rinkenback
3277 Fruitville Road, Unit E
Sarasota, Florida 34237
(941) 365-3800 / Fax (941) 952-1414

Dorothy Joan Rinkenback

Albert G. Rinkenback

STIPULATED FINAL JUDGMENT FOR TRACT NO. 003-779

This matter having come before the Court upon the foregoing Stipulation for Final Judgment for Tract No.: 003-779 entered between the Petitioner, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, (hereinafter “SFWMD” or “District” or “Petitioner”), and the Respondents, DOROTHY JOAN RINKENBACK and ALBERT G. RINKENBACK (hereinafter collectively referred to as “Respondents”), by and through their duly authorized attorneys, and this Court otherwise being fully advised of the premises therein, and finding that the compensation to be paid by District is full, just and reasonable for all parties concerned, it is hereby:

1. CONSIDERED, ORDERED and ADJUDGED, that the Stipulation for Final Judgment for Tract No.: 003-779 has been entered into freely and voluntarily by the District and Respondents, and is adopted and approved by this Court in its entirety, and the parties are ordered to comply with the terms therein.

2. The Respondents shall recover from Petitioner the total sum of TWO HUNDRED THIRTY THREE THOUSAND FIVE HUNDRED NINETY DOLLARS (\$233,590.00), \$72,000.00 of which has been previously paid into the Court Registry by the District and withdrawn from the Court Registry by the Respondents, less any taxes owed the tax collector, and/or any applicable liens, leaving a balance due of ONE HUNDRED SIXTY ONE THOUSAND FIVE HUNDRED NINETY DOLLARS (\$161,590.00) in full and final compensation for Tract No.: 003-779 (See Exhibit “A” for legal description), for damages and claims of any nature, including, but not limited to, prejudgment or other interest claims, attorneys’ fees, and expert fees and costs.

3. ORDERED that Petitioner, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, as set forth above, shall pay to Respondents, by depositing into the Registry of the Court, for payment to Respondents made payable in the name of BRIGHAM MOORE, LLP, TRUST ACCOUNT, attorneys for Respondents, for proper disbursement, within twenty (20) days from the entry of this Stipulated Final Judgment, ONE HUNDRED SIXTY ONE THOUSAND FIVE HUNDRED NINETY DOLLARS (\$161,590.00), in full payment of the balance (after deducting the \$72,000.00 previously paid into the Court Registry by the District from the \$233,590.00 total amount), for all land, improvements, structures, prejudgment or other interest claims, real or personal property of any kind, personal belongings, other property interests or claims of any type, including, but not limited to, mobile homes, mining interests, fill dirt, aggregate, minerals, earth materials, mining business claims, and/or any other damages and/or claims involving Tract No. 003-779, as well as any claims for attorneys' fees, experts' fees, and costs, or any other claims in this matter, without which let execution issue.

4. The Clerk of the Circuit Court/Registry is hereby directed to mail a check payable to "BRIGHAM MOORE LLP", c/o S. William Moore, Brigham Moore, LLP, 3277 Fruitville Road, Unit E, Sarasota, Florida 34237, for the total sum ordered pursuant to paragraph 3, above, in the amount of ONE HUNDRED SIXTY ONE THOUSAND FIVE HUNDRED NINETY DOLLARS (\$161,590.00), less taxes owed the tax collector, and/or any applicable liens, if any, without further motion or order of the Court.

5. If not previously done, the Respondents shall fully execute the instrument attached hereto as Exhibit "B", before a notary public, and deliver it to the District within 10 days from the entry of this Stipulated Final Judgment. The District shall record said

instrument at the District's expense.

6. It is further ORDERED and ADJUDGED that the District's fee simple title and ownership interest, including but not limited to all previous right, title and interest of the Respondents to the property (Tract No. 003-779), described in the attached and incorporated Exhibit "A", which vested in the Petitioner pursuant to the Order of Taking and deposit of money heretofore made, is hereby *approved, ratified and confirmed*.

Done and Ordered in Chambers in Lee County, Fort Myers, Florida, this _____ day of _____, 2010.

Circuit Court Judge

Copies furnished to:

Edward Artau, South Florida Water Management District, 3301 Gun Club Road – MSC 1410, West Palm Beach, FL 33406

S. William Moore, Brigham Moore LLP, 3277 Fruitville Road, Unit E, Sarasota, Florida 34237

Cathy Curtis – Tax Collector, Lee County, 2480 Thompson Street, Fort Myers, FL 33901

Anne Dalton, Esq., counsel for Lee County Tax Collector, P.O. Box 850, Fort Myers, FL 33902-0850

TIIF, c/o Dept. of Environmental Protection, Gary L. Heiser, Asst. General Counsel, Office of General Counsel – Mail Stat. 35, 3900 Commonwealth Blvd., Room 628, Tallahassee, FL 32399-3000

Bob Duncan, Collier Resources Co., 2600 Golden Gate Parkway, Suite 112, Naples, FL 34105-3227

U.S. Capital Energy Inc., c/o CT Corporation System, Registered Agent, 1200 S. Pine Island Road, Plantation, FL 33324

Beach Road Development Co. LLC, 9990 Coconut Road, Suite 200, Bonita Springs, FL 34315

Exxon Mobil Corp., c/o Corporation Service Co., 1201 Hays Street, Tallahassee, FL 32301-2525