

MEMORANDUM

TO: Governing Board Members

FROM: Chip Merriam, Deputy Executive Director, Water Resources

DATE: July 19, 2005

SUBJECT: **Authorize publication of the Notice of Rule Development in the Florida Administrative Weekly (FAW) to amend Chapter 40E-4, F.A.C., and the Basis of Review for Environmental Resource Permits Within the South Florida Water Management District to facilitate conversion of construction permits to the operation phase, to make minor corrections to Appendix 6, and to add references to previously adopted mitigation bank and financial assurance forms.**

Recommendation

Staff recommends approval of the Notice of Rule Development to amend Chapter 40E-4, F.A.C., and the Basis of Review for Environmental Resource Permits Within the South Florida Water Management District, to facilitate conversion of construction permits to the operation phase, to make minor corrections to Appendix 6, and to add references to previously adopted mitigation bank and financial assurance forms.

Background

In March 1994, Sections 9 and 10 of the Basis of Review (BOR) were adopted by the Governing Board to formalize requirements for operating entities of surface water management and environmental resource permits. Section 9.2.4, BOR currently requires that the District permit be attached as an exhibit to the recorded property owner's association (POA) documents. The intent of this rule is to notify current and future landowners within a subdivision that a District permit exists and what the association's responsibilities are regarding the operation and maintenance of the surface water management system. However, in some cases, the POA has found it extremely difficult to amend the POA documents to attach the District permit. In 2003, the District initiated the practice via rule change of placing a Notice of Permit in the public records when an Individual Environmental Resource Permit (ERP) is issued. These types of notices are informational only and do not affect the title. District staff has determined that the placement of a Notice of Permit in the public records may also be a viable public noticing alternative for a POA. Staff recommends approval of the Notice of Rule Development to provide an alternative public noticing mechanism to property owners and to facilitate the processing of requests for conversion of SWM/ERP permits to the operation phase. In addition, Staff recommends correction of two minor errors in Sections 2.1.1.1 and 2.1.2.2 of the BOR – Appendix 6, and the addition of references regarding the District's previously adopted mitigation bank and financial assurance forms in Sections 4.3.7.6 and 4.4.4.7 of the BOR.

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