

RIGHT OF ENTRY AGREEMENT

Project: FLORIDAN AQUIFER MONITORING REGIONAL NETWORK

FORT PIERCE UTILITIES AUTHORITY ("Property Owner"), a public utility whose main office is located at 206 South 6th Street, Fort Pierce, Florida, and SOUTH FLORIDA WATER MANAGEMENT DISTRICT, a public corporation of the State of Florida ("District"), whose principal office is located at 3301 Gun Club Road, West Palm Beach, Florida, hereby agree that District, its agents, contractors, employees and assigns, are hereby granted the right to enter upon that certain real property (the "Property") owned by Property Owner, located at 403 Seaway Drive in St. Lucie County, Florida, legally described in Exhibit "A" attached hereto and incorporated herein by reference, for the purposes described below. The location of the equipment to be installed on the Property shall be mutually agreed upon by the parties hereto prior to the District exercising any of its rights under this Right of Entry. Termination shall be pursuant to the provisions of Paragraph 14 or upon either party giving notice of intent to terminate by providing notice in writing sixty 60 days prior to the date upon which either party wishes to terminate this agreement. Termination may be with or without cause.

Project Description.

I. Purpose

The District wishes to enter into this agreement to enhance its Floridan Aquifer System (FAS) monitor well network throughout the south Florida region. This monitoring effort is intended as a long term initiative, so that sufficient information can be obtained to develop and calibrate a regional aquifer model. The model will be used to evaluate the feasibility of Aquifer Storage and Recovery (ASR) as part of the Comprehensive Everglades Restoration Project (CERP). The model will also be used to develop future water supply plans in the region.

II. Activities

District activities conducted on the Property will focus exclusively on obtaining water-level and water-quality data from an existing artesian well on the Property. All monitoring will be passive in nature and will be conducted in a manner to minimize disruption to normal operations on the property. The major activities proposed at each monitoring site consist of: (a) equipment installation and (b) data collection. It is agreed that the District shall incur all costs associated with the two aforementioned activities including equipment installation, including without limitation well-head modifications, and any associated minor permit modification fees, and collection activities as described herein. The District shall also be responsible for the maintenance and operation of any and all equipment it installs on the Property pursuant to this Right of Entry.

- a. *Equipment installation.*** Staff from the District's Electronic Support and Data Acquisition (ESDA) Division, or a District-approved contractor will install the data-logger housing, and automated electronic water-level recording equipment on the selected well. All monitor well pads will be surveyed to National Geodetic Vertical Datum (NGVD) by District staff or a District-approved contractor. A list of the data logging equipment and a photograph showing the equipment installed on a similar well are included in Exhibit "B".
- b. *Data collection.*** Water-level data from the monitor wells will be collected digitally in real-time and/or downloaded periodically by District staff, or an approved contractor, for archiving. Typically, one to two field technicians using a portable computer will download the electronic data-loggers monthly as well as perform routine maintenance on the equipment. During the first few months following installation, data-loggers may be

downloaded twice per month to troubleshoot equipment problems and ensure that all installations are performing as intended. Separate site visits may be scheduled during the course of the year to maintain, repair or upgrade equipment as deemed necessary. Access to the Property during these trips will be coordinated with the Property Owner or his/her agent.

On a quarterly basis, District staff, or a District-approved contractor, may collect a groundwater sample for chemical analysis from the selected well. A licensed analytical laboratory will analyze the groundwater samples for major anions and cations. These samples are necessary to determine the density of the groundwater in the Floridan aquifer. Determining the correct groundwater density will allow the District to accurately calibrate the regional groundwater model. To ensure a representative sample from the monitor zone of interest, it will be necessary to purge the well before obtaining the water sample.

The Property Owner and the District hereby agree as follows:


1. The Property Owner hereby acknowledges that (i) any equipment or physical structure (i.e. data logger housing) placed on the Property by the District shall remain the property of the District, and (ii) all such equipment shall be removed from the Property by the District on or before the termination of this Right of Entry.
2. The District agrees that upon completion of the activities proposed in this Right of Entry, any portion of the Property which is damaged as a result of activities conducted by the District pursuant to this Right of Entry will be returned to substantially the same condition that it was in on the date hereof.
3. The Property Owner shall allow all authorized representatives of the District, their vehicles and equipment access to the Property on reasonable notice in order to implement and carryout the activities described herein.
4. This Right of Entry does not convey any property rights or equipment to the Property Owner or the District nor any rights and privileges, other than those specified herein.
5. Entry into this Right of Entry does not relieve the Property Owner's need to comply with other federal, state or local laws, regulations or ordinances, or the requirements of District issued water-use permit(s).
6. This Right of Entry may be modified only upon the mutual consent of both parties, submitted in writing.
7. Prior to any sale, transfer or conveyance of the Property, the District requests notification so that alternative agreements or arrangements may be made, if necessary.
8. The District acknowledges its liability for torts to the extent provided and allowed under section 768.28, Florida Statutes. Nothing contained herein shall be construed as a waiver of sovereign immunity by the District or as a consent to be sued by third parties in any matter arising out of this Right of Entry.
9. Throughout the term of this Right of Entry, the District shall maintain a program of self-insurance covering its liabilities for worker's compensation insurance and liability insurance as prescribed by Chapter 440, Florida Statutes, and Section 768.28, Florida Statutes, and shall provide proof of insurance coverage to the Property Owner prior to

entry onto the Property. The District shall also cause each of its contractors, if any, to provide a certificate of insurance evidencing (1) worker's compensation insurance in the amount prescribed by Chapter 440, Florida Statutes, (ii) comprehensive general liability insurance in the amount of One Million and 00/100 Dollars (\$1,000,000.00) per occurrence, combined single limit for bodily injury liability and property damage liability which shall name the Property Owner as an insured, and (iii) business automobile liability insurance which shall have minimum limits of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) per occurrence, combined single limit for bodily injury liability and property damage liability. This shall be an "any-auto" type of policy including owned, hired non-owned and employee non-ownership coverage.

10. It shall be the responsibility of the District to ensure that all subcontractors conducted allowed activities on the Property by this Agreement are adequately insured or covered under its policies of insurance.
11. All of the District's personal property, equipment and fixtures placed upon the Property shall be at the sole risk of the District and the Property Owner shall not be liable under any circumstances for any damage thereto or theft thereof other than any such damage or loss resulting from the intentional or negligent acts of the Property Owner and/or its directors, officers, employees, or agents. In addition, Property Owner shall not be liable or responsible for any damage or loss to property or injury or death to persons occurring on or adjacent to the Property resulting from any cause, including but not limited to, defect in or lack of repairs to any personal property of the District located on the Property, with the exception of any such damage or loss resulting from the intentional or negligent acts of the Property Owner and/or its directors, officers, employees, or agents.
12. The laws of the State of Florida shall govern all aspects of this Agreement. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall be in St. Lucie County for claims under state law and the Southern District of Florida for any claims which are justifiable in federal court.
13. Nothing contained in this Agreement shall be construed to create the relationship of principal and agent, partnership, joint venture or any other relationship between the Parties hereto.
14. The original term of this Right of Entry shall run five (5) years from the date hereof. Provided this Right of Entry has not otherwise been terminated by either party, the term of this Right of Entry shall automatically be extended for up to five (5) successive renewal terms of five (5) years each. All terms, conditions, covenants and provisions of this Right of Entry shall apply during all renewal terms, if any.

Witness our hands and seals this ____ day of _____, 2004.

Fort Pierce Utilities Authority, a Florida Public Utility

By: 

Print Name: ELIE J. BOUDREAUX III

Title: DIRECTOR OF UTILITIES

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT,
a public corporation of the State of Florida**

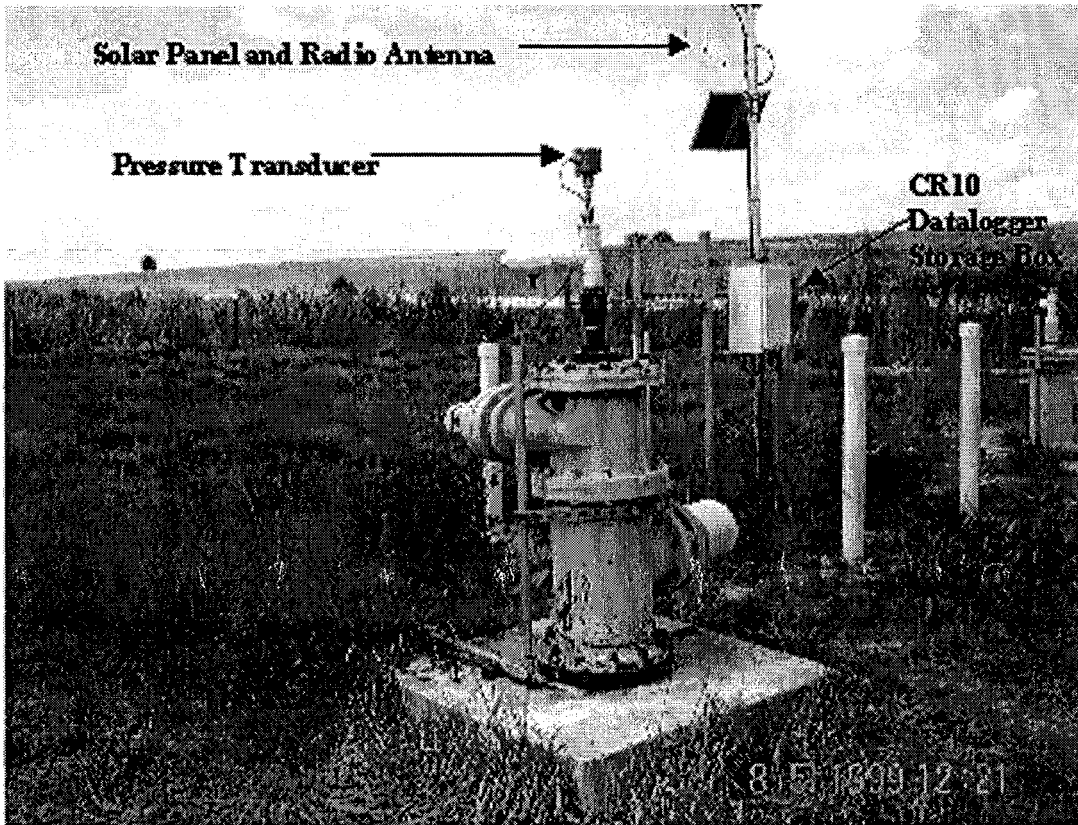
By:  _____
Henry Dean, Executive Director

EXHIBIT A

Legal Description

2 35 40 FROM SEC COR COMMON TO SECS 3, 4, 9 AND 10 RUN E 2240 FT, TH N 720 FT, TH N 70 DEG 58 MIN 30 SEC E 1200 FT, TH S 19 DEG 01 MIN 30 SEC E 85 FT TO A PT IN CENTER OF CAUSEWAY BRIDGE, TH N 70 DEG 16 MIN E 2009.5 FT TO CROSS MARKIN DECK NEAR E END OF AFORESD BRIDGE AND POB, FROM SD PT RUN S 20 DEG 50 MIN E 1800 FT TO A PT, TH N 69 DEG 10 MIN 00 SEC E 400 FT, TH N 20 DEG 50 MIN 00 SEC W 750 FT, TH N 20 DEG 17 MIN 30 SECE 283.10 FT TO A PT ON ORIGINAL SHORELI OF CAUSEWAY ISLAND: BEING SELY COR OF LANDS CONVEYED BY TRUSTEES OF TIIIF OF FL TO FT PIERCE INLET DIST IN DB 127-253, TH N 24 DEG 55 MIN 30 SEC W 878.66 FT TO A PT, TH S 64 DEG 50 MIN W 525 FT TO POB, TOGETHER WITH ALL ACCRETED LANDS LYG WLY OF W LI OF ABOVE DESC PROP-LESS RW FOR SR A1A- (18.70 AC) (OR 238-24).

EXHIBIT B



Example of an installed electronic water level recorder and associated equipment on an artesian well.

EQUIPMENT LIST

General list, subject to change, refer to Work Order for specifics

DATALOGGER:

Model CR10X-2M Measurement and Control Module OR Model CR10X-TD-2X Measurement and Control Module (Loggernet)

RF Modem 315M (RF 95A) for unmodified data radios VERSION # 11

Campbell Scientific, Inc. (CSI)
815w 1800N
Logan Utah 84321-1784
801-753-2342

RF EQUIPMENT:

DATA RADIO WASECA, MN USA:

VHF (169,425 MHZ)
MODEL DL-3422 / DL-3400
PART # 242-4010-610

RF Cable: RG-8/U, Belden 8237

Lightning Protection: Polyphaser IS-NEMP-C2 Lighting and surge Protector

Suggested Vendor: TESSCO

Water Level Pressure Sensors:

Model MPSDIG Guage (Screw-in), SDI-12 Pressure Transducer

Rittmeyer Ltd.
Hile Controls of Florida
PO Box 522170
Longwood, FL
(407) 332-6288

ACCESSORIES:

Battery Charge Controller: Solarstate SRX-6

Solar Panel: Solarex 1-MSX-18 w/mounting bracket

Atlantic Solar Products, Inc.
PO Box 70060
Baltimore, MD 21237
(410)686-2500

Liquidtight Bushings (For Environmental enclosure)

Thomas & Betts #2671 w/nuts
Any electrical supply.