

**STATE OF FLORIDA
LAND AND WATER ADJUDICATORY COMMISSION**

**PUTNAM COUNTY
ENVIRONMENTAL COUNCIL, INC.,**

Petitioner,

vs.

FLWAC Case No. WMD-09-005

**ST. JOHNS RIVER
WATER MANAGEMENT DISTRICT,**

Respondent.

**APPENDIX TO SEMINOLE COUNTY'S AND
ORLANDO UTILITIES COMMISSION'S ANSWER BRIEF**

Edward P. de la Parte
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**COUNSEL FOR PUTATIVE INTERVENORS/RESPONDENTS
SEMINOLE COUNTY AND ORLANDO UTILITIES COMMISSION**

Putative Intervenors/Respondents Orlando Utilities Commission and Seminole County, provide the following appendix in support of their answer brief:

Date	Description	Pages
04/27/2009	Seminole County BOCC Chairman Bob Dallari letter to Dr. David Hornsby of St. Johns River Water Management District	1-4
4/30/2009	Robert Teegarden, Vice President of Water Business Unit for Orlando Utilities Commission's letter to Dr. David Hornsby of St. Johns River Water Management District	5-8
05/11/2009	City of Orlando Mayo Buddy Dyer's letter to Kirby Green, Executive Director of St. Johns River Water Management District	9-10

Respectfully submitted,

de la PARTE & GILBERT, P.A.



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**Counsel for Seminole County and
OUC**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by email or U.S. Mail on this 7th day of August, 2015 on Cynthia P. Kelly at FLWAC.Clerk@laspbs.state.fl.us; Barbara Leighty at Barbara.Leighty@laspbs.state.fl.us; Office of Governor Rick Scott, State of Florida, The Capitol, 400 S. Monroe Street, Tallahassee, FL 32399-0001; Jeff Awater at Jeff.Awater@myfloridacfo.com; Pam Bondi at pam.bondi@myfloridalegal.com; Adam Putnam at adam.putnam@freshfromflorida.com; L. Mary Thomas at thomaslm@elderaffairs.org; John R. Thomas, Esquire at jrthomasesq@earthlink.net; Kristine P. Morris, Esquire at kristine.p.morris@dep.state.fl.us; Douglas Beason, Esquire at doug.beason@dep.state.fl.us; Jonathan P. Steverson at jon.steverson@dep.state.fl.us; John P. Heekin, Esquire at jack.heekin@eog.myflorida.com; Michael W. Woodward, Esquire at info@keyserandwoodward.com; Thomas I. Mayton, Jr. Esquire at tmayton@sjrwmd.com; and Veronika Thiebach at ythiebach@sjrwmd.com.


Edward P. de la Parte, Esq.

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies compliance with the Florida Land and Water Adjudicatory Commission's Standards of Operations rules as follows:

- a) The original physically signed Answer Brief for Seminole County and OUC for the duration of the proceeding and of any subsequent appeal or subsequent proceeding in that cause, and Seminole County and OUC shall produce it upon the request of the other parties; and
- b) Seminole County and OUC shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed.


Edward P. de la Parte, Esq.



April 27, 2009

Dr. David Hornsby
St. Johns River Water Management District
P.O. Box 1429
Palatka, Florida 32178-1429

**RE: TECHNICAL PUBLICATION SJ2006-2D
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, DISTRICT WATER
SUPPLY PLAN 2005, DRAFT FOURTH ADDENDUM, MARCH 25, 2009**

Dear Dr. Hornsby:

I am writing on behalf of Seminole County in support of Technical Publication SJ2006-2D, St. Johns River Water Management District, District Water Supply Plan 2005, Draft Fourth Addendum, March 25, 2009 ("Fourth Addendum"), which reaffirms the St. Johns River Water Management District's ("District") ongoing commitment to the evaluation of potential alternative water supply sources throughout the District.

Seminole County is sponsor of the St. Johns River near Yankee Lake Project, a regional water supply project which is identified as an alternative water supply project in the District's current Water Supply Plan (the "Plan") and the Fourth Addendum.

It has come to our attention that despite the lengthy and public process to develop alternatives now, as actual plans and projects are moving forward, a couple of groups have requested that the District remove the designation of the St. Johns River and its tributary, the Ocklawaha River, as alternative water supply sources from the Fourth Addendum. As you know, the District, though an ongoing public process, has identified the St. Johns River as an alternative water supply source since 2000, when the District published its first District Water Supply Plan. Since that time, public meetings have refined and affirmed that decision and millions of public dollars have been expended by the District and local governments in pursuing alternative water supply projects. Please note that a number of consumptive use permits issued by the District contain conditions requiring the investigation and development of alternative water supply sources.

Furthermore, in February 2008 the District's Central Florida Coordination Area ("CFCA") Rules went into effect. As you know, these rules were adopted based on the District's

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Dr. David Hornsby

determination that traditional groundwater supplies will be inadequate to meet the region's future water demands and that as a result alternative water supplies would have to be developed by central Florida utilities to meet increased water demands beyond 2013. As a result of these conclusions, the District adopted the CFCA Rules to require applicants to identify and develop supplemental water supply projects which will result in the applicants' using supplemental water supplies by the end of 2013. As important, during the CFCA process, participants openly, freely and with determination discussed the possible alternatives, including surface water. In accordance with these requirements adopted by the District, Seminole County has diligently pursued the development of supplemental water supply projects, including the Yankee Lake Project.

Inclusion of the St. Johns River in the Water Supply Plan is the result of more than a decade of careful technical evaluation of the feasibility of this surface water body as a potential water supply source. It is the result of an ongoing public process in which many stakeholders from across the District and representing every interest group participated. In the late 1990s, the District engaged in its Water 2020 planning process to identify alternative water supply sources to meet future demand in the region, including the St. Johns River. As a result of this and other evaluations and studies, the St. Johns River has been identified as potential alternative water supply project sources since the District's 2000 Regional Water Supply Plan. These studies include the evaluation of virtually every parameter in both high and low flow periods. The District has also conducted environmental evaluations culminating in the establishment of at least 5 minimum flows at locations throughout the Upper and Middle St. Johns River Basins pursuant to Section 373.042, Florida Statutes. Now, the District is conducting its ongoing peer-reviewed Alternative Water Supply Cumulative Impact Assessment, which will provide even greater levels of assurance regarding the quantities of water that can be safely withdrawn from the St. Johns River. Every study has shown that water can be safely withdrawn without compromising the health of ecosystems comprising the River. This final study will give us the sustainable yield. Even so, every permit is conditioned with monitoring requirements that will provide a "real time" check on projects and withdrawals.

Given the assurances provided by the studies that have already been conducted or are ongoing, and the fact that no new evidence exists to suggest that these alternative water supply projects are not feasible, and that the process to identify these sources and projects has been an ongoing, open effort involving stakeholders from across the District, there is no basis for the deletion of potential projects on the St. Johns and Ocklawaha Rivers from the Fourth Addendum. Removal of these projects from the Fourth Addendum would have severe consequences for water supply planning efforts throughout central Florida. Eliminating the St. Johns River from the Plan would defeat the purpose of the CFCA Rules and would render wasted the millions of public dollars spent in investigating the feasibility of these sources. Also wasted will be the thousands of hours from local governments, local groups, businesses, citizens, environmental groups and others who participated in the public process designed to create consensus. To remove the Fourth Addendum diminishes their work and their investment.

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Dr. David Hornsby

Furthermore, the identification of alternative water supply projects in the Plan is intended to support the long-term water supply planning efforts of the District, the local governments within the District, and the businesses and people who use that water. All projects must be designed to protect the river while providing water. Identification of potential alternative water supply projects in the Plan does not mean that such projects will ever be developed. There is no guarantee that potential projects will be issued the required permits by the District and other regulatory entities, be constructed, and ultimately begin withdrawing water. Once water suppliers identify alternative water supply projects in which they will participate, they will have to file applications seeking approval of the proposed withdrawal from the District, and provide reasonable assurance to the District that the project complies with all of the District's consumptive use permitting criteria. During this process, other interested parties will be afforded their full legal rights to seek review of any proposed action approving the withdrawal of water from one of the identified alternative water sources. To precipitously remove a potentially significant source that has been identified through the twin steps of public process and technical review is simply not in the public interest.

There can also be no dispute that the St. Johns and Ocklawaha River projects identified in the Fourth Addendum and prior versions of the Plan are "alternative water supplies" as the term is defined in Section 373.019(1), Florida Statutes. Section 373.019(1) specifically provides that "alternative water supplies" include "any other water supply source that is designated as nontraditional for a water supply planning region in the applicable regional water supply plan." Since the District has so designated these projects as "alternative water supplies" in the Fourth Addendum and prior versions of the Plan, they are by definition "alternative water supplies" as the term is used in Chapter 373, Florida Statutes. This conclusion was confirmed by the District Governing Board less than a month ago, when the Governing Board issued the final order approving the issuance of consumptive use permit No. 95581 to Seminole County for the withdrawal of 5.5 million gallons per day from the St. Johns River at Seminole County's Yankee Lake Facility. The District's final order adopted the recommended order issued by the administrative law judge in that proceeding, which found that as a matter of law, the proposed use of the St. Johns River is an alternative water supply since it is designated as such in the Plan, in accordance with the specifications of Section 373.019(1). *St. Johns Riverkeeper, Inc., et. al. v. SJRWMD, et. al.*, DOAH Case Nos. 08-1316, 08-1317, 08-1318, Recommended Order at ¶121, fn. 4 (DOAH, SJRWMD 2009). Thus, there is no legal basis for any claim that the St. Johns and Ocklawaha Rivers are not properly designated as alternative water supply projects in the Fourth Addendum.

Seminole County agrees that conservation is an important aspect of water supply planning, and supports the inclusion of conservation projects and activities in the Fourth Addendum and the continued investigation and development of better water conservation methods. However, the

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inclusion of conservation projects in the Plan does not reduce the need for the investigation and development of alternative water supply projects along the St. Johns River. Conservation is an essential part of every water supply plan, but conservation will not provide the water we will need in the future. The environment is best protected by implementing a combination of improved conservation and the investigation and development of a diverse set of alternative water supply projects.

Seminole County, like other local governments, is committed to providing high quality, affordable water to its citizens and businesses. We are equally committed to protecting the river that adds so much to the quality of our lives and community. We have participated in the various public processes the District has offered to identify and collaboratively develop plans for the future of Central Florida. Together, communities, business interests, people, groups and others have been offered the same opportunity. Many have taken advantage. The result is a water supply plan (including Addendum 4) that moves us along a better, more organized and strategic path to the future. We urge you to stay the course.

We respectfully request that these comments be added to the administrative record. Thank you in advance for your attention to this issue.

Sincerely,



Bob Dallari
Chairman

c: Board of County Commissioners
Cynthia A. Coto, County Manager



April 30, 2009

David Hornsby, Technical Program Manager
Water Supply Management
St. Johns River Water Management District
P.O. Box 1429
Palatka, Florida 32178-1429

**RE: Technical Publication SJ2006-2D
St. Johns River Water Management District, District Water Supply Plan
2005, Draft Fourth Addendum, March 25, 2009**

Dear Mr. Hornsby,

The Orlando Utilities Commission ("OUC") supports the Technical Publication SJ2006-2D, St. Johns River Water Management District, District Water Supply Plan 2005, Draft Fourth Addendum, March 25, 2009 ("Fourth Addendum"), which reaffirms the St. Johns River Water Management District's ("District") ongoing commitment to the evaluation of potential alternative water supply sources throughout the District.

OUC is one of several public utility stakeholders which have been working cooperatively to develop several alternative water supply projects on the St. Johns River, including the St. Johns River/Taylor Creek Reservoir Alternative Water Supply Project ("SJR/TCR Project"). The SJR/TCR Project was identified in the District's Water Supply Plan (the "Plan") starting in 2005.

Now, as the actual plans and projects are moving forward, several groups have requested that the District remove the designation of the St. Johns River and its tributary, the Ocklawaha River, as alternative water supply sources from the Fourth Addendum. There is no legal basis for any claim that the St. Johns and Ocklawaha Rivers are not properly designated as alternative water supply projects in the Fourth Addendum. Removing the St. Johns River and other surface water sources or alternative water supplies is a mistake and would cause utilities to lose faith in the public water supply planning process. The District has identified the St. Johns River as an alternative water supply source since 2000, when the District published its first District Water Supply Plan (the "Plan"). Since that time, public meetings have refined and affirmed that decision and millions of public dollars have been expended by the District and local governments in pursuing these alternative water supply projects. Also, a number of consumptive use permits issued by the District contain conditions requiring the investigation and development of alternative water supply sources.

*David Hornsby
April 30, 2009
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Furthermore, the District adopted the CFCR Rules to require applicants to identify and develop alternative water supply projects by the end of 2013. Importantly, during the CFCR rulemaking process the participants openly, freely and with determination discussed the possible alternatives, including surface water.

In addition, OUC entered into a settlement agreement with Orange County, the St. Johns River Water Management District, and the South Florida Water Management District in 2004 to develop one or more alternative water supply projects by 2013. In accordance with this agreement, the amount of water produced by the AWS project(s) through 2023 will be sufficient to meet that portion of OUC's and Orange County's water demands that exceed permitted groundwater allocations, and which are not otherwise satisfied through conservation and reuse. To this end, OUC and Orange County have diligently pursued the development of alternative water supply projects, including the SJR/TCR Project.

Inclusion of the St. Johns River in the Water Supply Plan is the result of more than a decade of careful technical evaluation of the feasibility of these surface water bodies as potential water supply sources. Many stakeholders from across the District, representing every interest group, participated in this ongoing public process. In the late 1990s, the District engaged in its Water 2020 planning process which identified alternative water supply sources to meet future demand in the region, including the St. Johns River. As a result of this and other evaluations and studies, the St. Johns River has been identified as a potential alternative water supply project source since the District's 2000 Regional Water Supply Plan. These studies include the evaluation of virtually every parameter in both high and low flow periods.

The District has also conducted environmental evaluations culminating in the establishment of at least 5 minimum flows at locations throughout the Upper and Middle St. Johns River Basins pursuant to Section 373.042, Florida Statutes. These studies show that water can be safely withdrawn without compromising the health of ecosystems comprising the River. Now, the District is conducting its ongoing peer-reviewed Alternative Water Supply Cumulative Impact Assessment, which will provide even greater levels of assurance regarding the quantities of water that can be safely withdrawn from the St. Johns River. This final study will give us the sustainable yield. Even so, every permit is conditioned with monitoring requirements that will provide a "real time" check on projects and withdrawals.

There is no basis for the deletion of potential projects on the St. Johns and Ocklawaha Rivers from the Fourth Addendum based on studies already conducted or are ongoing; the fact that no new evidence exists to suggest that these alternative water supply projects are not feasible; and that the process to identify these sources and projects has been an ongoing, open effort involving stakeholders from across the District. Removal of these projects from the Fourth Addendum would have severe consequences for water supply planning throughout central Florida. Eliminating the Rivers from the Plan would defeat the purpose of the CFCR Rules and would waste the millions of public dollars spent in investigating the feasibility of these sources. Also wasted will be the thousands of hours from local governments, local groups, businesses,

*David Hornsby
April 30, 2009
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citizens, environmental groups and others who have participated in the public process designed to create consensus. To remove the St. Johns River from the Fourth Addendum severely diminishes their work and investment.

Furthermore, the identification of alternative water supply projects in the Plan is intended to support the long-term water supply planning efforts of the District and the local governments within the District. The Plan also supports the businesses and people who use that water within our water service area. All projects must be designed to provide water while protecting the river. Identification of potential alternative water supply projects in the Plan does not mean that such projects may be developed. There is no guarantee that potential projects will ultimately be issued the required permits by the District and other regulatory entities, be constructed, and ultimately begin withdrawing water. Once water suppliers identify alternative water supply projects in which they will participate, they will have to file applications seeking approval of the proposed withdrawal from the District, and provide reasonable assurance to the District that the project complies with all of the District's consumptive use permitting criteria. During this process, other interested parties are afforded their full legal rights to seek review of any proposed action approving the withdrawal of water from one of the identified alternative water sources. To hastily remove a potentially significant source that has been identified through the twin steps of public process and technical review is simply not in the public interest.

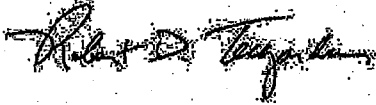
The inclusion of conservation projects in the Plan does not eliminate the need for the investigation and development of alternative water supply projects along the St. Johns River. Conservation is an essential part of every water supply plan, but conservation alone will not reduce future demands enough to eliminate the need for alternative water supply projects. The environment is best protected by implementing a combination of improved conservation programs and the investigation and development of a diverse set of alternative water supply projects.

OUC is committed to providing high quality, affordable water to its customers. We are equally committed to protecting the rivers that add so much to the quality of our lives and our communities. We have participated in the various public processes the District has offered to identify and collaboratively develop plans for the future of Central Florida. Together, communities, business interests, citizens, groups and others have been offered the same opportunity. Many have taken advantage. The result is a water supply plan, including the Fourth Addendum, which moves us along a better, more organized and strategic path to the future. We urge you to stay the course.

We respectfully request that these comments be added to the Board's informational record. Thank you in advance for your attention to this issue.

David Hornsby
April 30, 2009
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Sincerely,



Robert Teegarden, P.E.
V.P. Water Business Unit

cc: Kirby Green, Executive Director, SJRWMD
Hal Wilkening, Director, Resource Management, SJRWMD
Ed de la Parte, de la Parte & Gilbert
Brian Wheeler, Toho Water Authority
Jason Herrick, Orange County Utilities
Carl Larrabee, City of Cocoa
Raynetta Grant, City of Titusville
Tyler Coon, ECFS, Inc.
Debbie Bradshaw, OUC



CITY OF ORLANDO

OFFICE OF
BUDDY DYER
MAYOR

May 11, 2009

Kirby Greene
Executive Director
St. Johns River Water Management District
P.O. Box 1429
Palatka, Florida 32178-1429

**RE: Technical Publication SJ2006-2D
St. Johns River Water Management District, District Water Supply Plan
2005, Draft Fourth Addendum, March 25, 2009**

Dear Mr. Greene,

The City of Orlando ("City") would like to express its support of the St. Johns River Water Management District's ("District") ongoing commitment to evaluating potential alternative water supply sources. While the City is not directly in the water supply business, we recognize the importance to our community of having multiple water resources available to help meet future demands in an environmentally responsible manner.

We understand there are special interest groups that have asked the District to remove the St. Johns River and its tributary, the Ocklawaha River, as alternative water supply sources from the District's Water Supply Plan (the "Plan"). Inclusion of the St. Johns and Ocklawaha Rivers in the Plan came after more than a decade of careful technical evaluation of the feasibility of using these surface water bodies as potential water supply sources. As a result, the St. Johns River has been identified by the District as a potential alternative water supply source as early as the District's 2000 Regional Water Supply Plan.

Orlando is one of several public utility stakeholders working cooperatively to develop an alternative water supply project on the St. Johns River, namely the St. Johns River/Taylor Creek Reservoir Alternative Water Supply Project ("SJR/TCR Project"). This project was identified in the Plan the starting in 2005. We have expended time, effort and public dollars in pursuing the SJR/TCR project, with significant participation by the District. In fact, the Orlando Utilities Commission ("OUC"), the City's water provider, was compelled by a settlement agreement with Orange County, the St. Johns River Water Management District, and the South Florida Water Management District in 2004 to develop one or more alternative water supply projects by 2013.

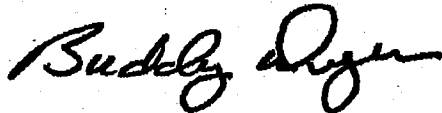
The use of the St. Johns River as an alternative water supply is an emotional issue, but any decision to remove it from the Plan must be based on good science. District studies have repeatedly shown that water can be safely withdrawn from the river without compromising the health of its ecosystems. As such, the City believes there is no basis for the deletion of potential projects on the St. Johns River from the Fourth Addendum; removal of this alternative water

Kirby Greene
May 11, 2009
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source from the Fourth Addendum would have severe consequences for water supply planning throughout central Florida.

We respectfully request that this letter be added to the Board's informational record. Thank you for your support and attention to this issue.

Sincerely,

A handwritten signature in black ink that reads "Buddy Dyer". The signature is written in a cursive, flowing style.

Buddy Dyer
Mayor