STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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| PINELLAS COUNTY, a political subdivision of the State of Florida,<br><br>Petitioner,<br><br>vs.<br><br>SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, an administrative agency of the State of Florida,<br><br>Respondent. | ) | CASE NO. 79-2325RX |
| WEST COAST REGIONAL WATER SUPPLY AUTHORITY,<br><br>Petitioner,<br><br>vs.<br><br>SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, an administrative agency of the State of Florida,<br><br>Respondent. | ) | CASE NO. 79-2392RX |

FINAL ORDER

Pursuant to notice, an administrative hearing was held before Diane D. Tremor, Hearing Officer with the Division of Administrative Hearings, on January 21, 22 and 23, 1980, in Tampa, Florida. Upon request of the parties, oral closing statements were made to the Hearing Officer on March 11, 1980, in Tampa, Florida.

APPEARANCES

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| For Petitioner Pinellas County: | John T. Allen, Jr.<br>4508 Central Avenue<br>St. Petersburg, Florida 33711 |
| For Petitioner West Coast Regional Water Supply Authority: | Kenneth E. Apgar<br>403 North Morgan Street<br>Suite 102<br>Tampa, Florida 33602 |

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| For Respondent Southwest Florida Water Management District: | L. M. Blain<br>Thomas E. Cone, Jr.<br>Post Office Box 399<br>Tampa, Florida 33601<br><br>Jay T. Ahern<br>5060 U.S. 41 South<br>Brooksville, Florida 33512 |
| For Intervenors: Hernando County | Robert Bruce Snow, County Attorney<br>Post Office Box 2060<br>Brooksville, Florida 33512 |
| Pasco County | Gerald A. Figurski, County Attorney<br>4025 Moon Lake Road<br>New Port Richey, Florida 33551 |
| Withlacoochee Regional Water Supply Authority | Jeannette M. Haag, Attorney<br>Haag and Haag<br>1900 West Main Street<br>Inverness, Florida 32650 |
| Sumter County Recreational and Water Conservation and Control Authority and Sumter County | Randall N. Thornton, Attorney<br>Post Office Box 58<br>Lake Panasoffkee, Florida 33538 |
| Citrus County | John F. Wendel<br>Wendel, Broderick, Chritton & Klepetko, Chartered<br>Post Office Box 5378<br>Lakeland, Florida 33802 |
| Withlacoochee Regional Planning Council | Robert S. Ryder<br>320 North West Third Avenue<br>Post Office Box 1635<br>Ocala, Florida 32670 |
| City of St. Petersburg | Carl R. Linn<br>214 Municipal Building<br>St. Petersburg, Florida 33701 |

INTRODUCTION

By a petition filed with the Division of Administrative Hearings on November 21, 1979, Pinellas County seeks an administrative determination of the invalidity of an existing rule pursuant to Florida Statutes, Section 120.56. Shortly thereafter, the West Coast Regional Water Supply Authority filed a similar petition challenging the same rule, as well as a motion to intervene in the proceeding filed by petitioner Pinellas County. Upon motion of the respondent Southwest Florida Water Management District, the two cases were consolidated. Thereafter, the following entities moved to intervene as parties respondent in support of the validity of the rule in question: Pasco County, Hernando County, Sumter County, Citrus County, the Withlacoochee Regional Water Supply Authority, the Sumter County Recreation and Water Conservation and

Control Authority, and the Withlacoochee Regional Planning Council. Several of these movants also filed petitions in support of the validity of an existing rule. The City of St. Petersburg moved to intervene contending that the rule is an invalid exercise of delegated legislative authority. By order of the undersigned Hearing Officer, all motions to intervene were granted. The "petitions of the intervenors in support of the validity of an existing rule" were dismissed, as no authority for such a petition exists within Chapter 120, Florida Statutes.

The cause proceeded to an evidentiary hearing on January 21, 22 and 23, 1980, at the conclusion of which all parties rested. The parties requested the opportunity to make oral closing statements to the Hearing Officer after the receipt of the transcript of the hearing, and such request was granted. Closing statements were heard on March 11, 1980. On March 7, 1980, the respondent Southwest Florida Water Management District filed a "suggestion of mootness," contending that the issues in dispute had been rendered moot because the respondent had issued a final order granting a consumptive use permit to the petitioners. A similar "suggestion of mootness" was filed by intervenor Pasco County contending that the final order and permit issued by the respondent, as well as a declaratory statement regarding the applicability of the challenged rule, rendered the issues in this proceeding moot. During the time scheduled for closing statements, the respondent agency and the intervenors in support of the rule also requested the Hearing Officer to take official notice of the final order granting the consumptive use permit, the permit itself and the declaratory statement issued to Pasco County on March 4, 1980, and proffered these documents into evidence as Exhibits K and L. The undersigned reserved ruling on the objections by petitioners to the admissibility of these documents into evidence at that time.

It is the holding of the undersigned that official notice will be taken of the February 6, 1980, final order granting the permit to petitioners, the permit and the March 4, 1980 declaratory statement of the respondent to Pasco County for the purpose of ruling on the suggestions of mootness. However, the objections to proffered Exhibits K and L are sustained on the basis of timeliness and that they are irrelevant and immaterial to any issue in dispute herein, including the issue of the standing of petitioners to seek a determination of the validity of a rule. These rulings will be discussed further in the Conclusions of Law portion of this order.

The petitioner Pinellas County and the respondent have submitted to the Hearing Officer proposed final orders containing proposed findings of fact and proposed conclusions of law. These, as well as the legal memoranda submitted by the parties, have been fully and carefully considered by the undersigned. To the extent that the proposed findings of fact are not incorporated in this final order, they are rejected as being either irrelevant and immaterial to the issues for determination herein, not supported by competent, substantial evidence or as constituting Conclusions of law as opposed to findings of fact.

## FINDINGS OF FACT

Upon consideration of the oral and documentary evidence adduced at the hearing, the following relevant facts are found:

1. The petitioner Pinellas County operates a water system which serves a population of approximately 400,000. This figure includes some 250,000 individual meter accounts and 150,000 wholesale customers, including the Pasco County Water Authority 1/ and the Cities of Tarpon Springs, Clearwater, Safety

Harbor and Pinellas Park. At the time of the hearing, Pinellas County was conducting negotiations with the Cities of Oldsmar and Dunedin to supply them with water. Like other suppliers of water within the Southwest Florida Water Management District (SWFWMD, Pinellas County is required to obtain consumptive use permits (CUP) from SWFWMD. This petitioner currently operates two wellfields -- the Eldridge-Wilde Wellfield Containing 1,925 acres and the East Lake Road Wellfield Containing 5,861 acres. In addition, Pinellas County receives water supplies from the West Coast Regional Water Supply Authority (WCRWSA), which operates the Cypress Creek Wellfield Containing 4,895 acres and the Cross Bar Ranch Wellfield Containing 8,060 acres.

2. On an average daily basis, the Pinellas County water system presently utilizes 45 million gallons of water per day (mgd), with a peak use of 65 mgd. Projections indicate that the estimated water demand for the Pinellas County water system will be an average of 54.3 mgd, and a peak use of 90.15 mgd by 1980. For the year 1982, the estimate is 60.06 mgd average and 98.71 mgd peak. For 1984, the estimate is 65.44 mgd average and 106.65 mgd peak. At the time of the hearing, the present permitted capacity available to Pinellas County was 73 mgd average and 100 mgd peak or maximum. Estimates of projected water demands for Pinellas County indicate a definite shortage of water during peak periods by the year 1984 and a cushion of only 1.29 million gallons during peak periods as early as 1982. Pinellas County has experienced water shortages in the recent past, resulting in emergency measures such as sprinkling bans during the daylight hours. Considering the possibilities of equipment breakdowns or extremely dry periods, a cushion of 1.29 mgd is not a sufficient surplus.

3. The WCRWSA was formulated by an interlocal agreement under Chapter 373, Florida Statutes, and is authorized to acquire water and water rights, develop, store and transport water, and to provide, sell and deliver water for county or municipal purposes or uses. The members of the WCRWSA are Pasco County, the City of Tampa, Hillsborough County, the City of St. Petersburg and Pinellas County. As noted above, the WCRWSA operates two wellfields -- Cypress Creek and Cross Bar Ranch. Pinellas County actually owns the land at the Cross Bar Ranch. At the time of the hearing, the Cross Bar Ranch Wellfield was permitted for 15 mgd average and 20 mgd peak.

4. In August of 1979, the WCRWSA and Pinellas County, as co-applicants, filed an application for a modification of their consumptive use permit at the Cross Bar Ranch Wellfield to authorize an annual average withdrawal of 30 mgd and a maximum withdrawal of 45 mgd. Under the rules of respondent SWFWMD, an application for an increased use is treated as a new application. Rule 16J-2.04(5), Fla. Admin. Code. Pasco County moved to intervene in the petitioners' CUP application process concerning the Cross Bar Ranch Wellfield. Among the issues raised by Pasco County in their Petition to intervene was whether the proposed consumptive use would exceed the water crop of land owned, leased or otherwise controlled by the applicants.

5. At the time of the evidentiary hearing in the present cause, SWFWMD had not yet held an administrative hearing on the application for a CUP modification for the Cross Bar Ranch Wellfield. The application was pending both at the time of the filing of the petitions with the Division and at the time that all parties rested at the conclusion of the evidentiary hearing.

6. The petitions filed in the instant cause challenge the validity of SWFWMD'S Rule 16J-2.11(3), Florida Administrative Code. This rule is known as the water rule, and reads as follows:

> 16J-2.11 Conditions for a Consumptive Use Permit.
> (3) Issuance of a permit will be denied if the amount of water consumptively used will exceed the water crop of lands owned, leased or otherwise controlled by the applicant. (Except where determined otherwise, the water crop [precipitation less evapotranspiration] throughout the District will be assumed to be three hundred sixty-five thousand (365,000) gallons per year per acre.)

7. Another subsection of Rule 16J-2.11 provides that the governing board of SWFWMD may grant an exception to the water crop rule. Subsection (5) of Rule 16J-2.11 provides that

> (5) The Board for good cause shown may grant exceptions to the provisions of paragraphs (2), (3), (4), and (10) of this rule when after consideration of all data presented, including economic information, it finds that it is consistent with the Public interest.

8. The caveat of the water crop rule is that only 1,000 gallons per acre per day may be withdrawn under any permit. The Cross Bar Ranch consists of 8,060 acres. Under the challenged rule, only 8,060,000 gallons per day could be withdrawn. Therefore, the application pending before SWFWMD for a CUP for 30 mgd average and 45 mgd peak far exceeds the water crop rule. The existing permit also exceeds the limitations of the rule.

9. The water crop concept had its genesis in a report on the amount of available water in a certain portion of the respondent's water management district. The rule is applied district-wide by SWFWMD. In spite of its seemingly mandatory language, the rule is not ultimately implemented or interpreted in a mandatory fashion by the respondent. Instead, it is applied as an initial or threshold level of inquiry, or "first cut," and, if the other criteria for a permit can be satisfied, SWFWMD will grant an exception under subsection (5) of Rule 16J-2.11. With one possible exception, the respondent has never denied a permit solely because the application exceeded the water crop concept. It would not be hydrologically sound to deny a CUP solely on the basis of the water crop rule. Consumptive use permits can be adequately regulated without such a rule. No other water management district in Florida has promulgated or requires compliance with a water crop rule.

10. The water crop concept is hydrologically unsound and cannot be properly applied to any specific piece of property. A generalization of the amount of water which is available throughout the district (1,000 gallons per acre per day) cannot reasonably be applied in individual consumptive use proceedings. This is due to the fact that the amount of water which can be withdrawn from any specific parcel of lad is dependent upon the amount of rainfall the land receives, soil types, the water table, the existence of confining layers, vegetation types and other variable hydrological factors. These factors vary widely throughout the subject water management district.

11. If the water crop rule were strictly applied by SWFWMD, the petitioners would be required to purchase or otherwise acquire an additional 80,000 acres of land to supply their customers with the water now permitted to

be withdrawn. This would obviously result in excessive financial burdens to the petitioners and, ultimately, consumers.

12. Without objection by the respondent or the intervenors, evidence was adduced by the petitioners regarding the action of the Florida Joint Administrative Procedures Committee in its review of Rule 16J-2.11(3) in 1976. The undersigned makes no finding of fact regarding this evidence inasmuch as it deemed irrelevant and immaterial to the ultimate determination in this cause.

13. As noted above, the City of St. Petersburg is a member of the WCRWSA. Because of recent water shortages, St. Petersburg has loaned to Pinellas County apportion of its allotment from a wellfield operated by WCRSWA. It is projected that the City of St. Petersburg will need additional supplies of water between the years of 1983 and 1985.

14. The remaining intervenors are all charged with the responsibility to obtain sufficient water supplies within the district of SWFWMD. They are subject to the consumptive use permitting rules of SWFWMD.

15. Evidence was offered on the issue of whether the water crop rule was strictly applied to Pinellas County at its East Lake Road Wellfield, which comprises 5,861 acres. At present, the amount of water withdrawal permitted is less than the water crop for the amount of acreage of the wellfield. Though there was evidence that SWFWMD inquired as to the control or ownership of the land, the actual permit application was not introduced into evidence nor was there sufficient evidence adduced by petitioner to illustrate the reasons for a permit for an amount less than that which would be permitted under the challenged rule.

## CONCLUSIONS OF LAW

16. In this proceeding, petitioners contend that the challenged water crop rule is an invalid exercise of delegated legislative authority for the reasons that:

> (1) the rule exceeds SWFWMD's statutory authority under Chapter 373, Florida Statutes,
> (2) the rule impermissibly conflicts with the provisions of Chapter 373,
> (3) the rule creates a property right to water by virtue of land ownership, contrary to Chapter 373 and the Florida Supreme Court's decision in the case of Village of Tequestra v. Jupiter Inlet Corporation, 371 So.2d 663 (Fla. 1979),
> (4) the rule is arbitrary and without a rational basis in fact because it is a hydrologically unsound method to determine the reasonable, beneficial use of water, and
> (5) the Florida Joint Administrative Procedures Committee has held that the rule exceeds statutory authority.

The City of St. Petersburg aligns itself with the contentions of the petitioners.

17. The respondent SWFWMD asserts that the petitioners lack standing as substantially affected persons to challenge the water crop rule. SWFWMD

contends that it has proper statutory authority to adopt such a rule, that the rule is not prohibited by the Tequestra decision or Chapter 373 and that the rule is a valid method to review applications for a consumptive use permit and to determine the reasonable beneficial use of water. The remaining intervenors align themselves with the contentions of SWFWMD.

18. On the issue of standing to seek an administrative determination of the validity of an existing rule, respondent urges that the petitioners have not demonstrated that they are substantially affected by the water crop rule. Respondent points to the fact that, at the time of the petition and the hearing, petitioners had already received permission to withdraw almost double the limits of the water crop rule from the Cross Bar Ranch Wellfield. The rule thus had caused them no injury in the past that would establish standing. Likewise, respondent contends that the speculative concern of the petitioners about the possibility of denial of their request for modification of that permit and the possibility that Pasco County might appeal an order modifying the permit has proved unfounded and illusory by events occuring subsequent to the evidentiary hearing. SWFWMD correctly concludes that Pinellas County has failed to prove that the water crop rule was applied to limit withdrawals from the East Lake Road Wellfield. In summary, respondent contends petitioners have failed to establish injury in the past, have failed to show any continuing present adverse effects from the rule and have failed to establish a likelihood of injury in the future.

19. The most definitive case law on the subject of standing to challenge rules pursuant to Chapter 120, Florida Statutes, is found in the case of Florida Department of Offender Rehabilitation v. Jerry, 353 So.2d 1230 (Fla. 1st DCA, 1978). There, the First District Court of Appeal held that one challenging an administrative rule must demonstrate injury in fact or that the threat of injury from the challenged rule is both real and immediate and not conjectural or hypothetical. The Jerry case stands for the proposition that an abstract, imagined injury is not enough to confer standing.

20. Equally important in the Jerry case is the Court's pronouncement as to the legal point in time in which one must illustrate that he is substantially affected by a rule. There, the Court stated that Jerry, a prison inmate who challenged a rule subjecting an inmate to disciplinary confinement and for feiture of gain time, had

> ". . .failed to demonstrate, either at the time his petition for administrative relief was filed or at the time of the hearing, that he was then serving disciplinary confinement or that his existing prison sentence had been subjected to loss of gain time." 353 So 2d 1230, at 1235.

Thus, it is clear that the legal time that standing must be proven is either at the time of the filing of the petition or at the time of the evidentiary hearing.

21. In this instance, the petitioners have met both time periods with respect to standing. Both at the time of the filing of the petitions and at the time of the evidentiary hearing, both petitioners, as co-applicants, had pending before SWFWMD an application to increase the amount of water to be withdrawn from the Cross Bar Ranch Wellfield. Since such an increase is considered to be a new use under SWFWMD's Rule 16J-2.04(5), the fact that petitioners had an

existing permit exceeding the limitations of the water crop rule is immaterial. The application for modification must be considered anew by the respondent. Inasmuch as the application for a modified permit exceeds the water crop rule, said rule could be utilized as grounds for denial of the CUP application and petitioners are thereby adversely and substantially affected by the rule. The fact that the applicants received a favorable final order and a permit from SWFWMD subsequent to the evidentiary hearing in this proceeding is irrelevant and immaterial to the issue of standing. As noted above, standing accrues either at the time of the filing of the petition for a determination of the validity of a rule or at the time of hearing.

22. For the reasons stated above with respect to standing, the respondent's and intervenor's suggestions of mootness based upon the subsequent issuance of a permit to petitioners are denied. Petitioners are entitled to an administrative determination on the validity of Rule 16J-2.11(3), and subsequent events can not alter this right. The suggestion of mootness on the basis of the declaratory statement regarding the challenged rule issued to Pasco County on March 4, 1980, is also denied. To hold otherwise would permit an agency to avoid a proper challenge to its rules by the simple device of issuing a declaratory statement prior to the entrance of a final order in every rule challenge proceeding under Section 120.56, Florida Statutes. The declaratory statement issued by the respondent to Pasco County, an intervenor in the present proceeding, is not binding either on the petitioners in this case or the Hearing Officer in reaching a determination as to the validity of the challenged rule. As recognized in the case of State Dept. of Health and Rehabilitative Services v. Barr, 359 So.2d 503 (Fla. 1st DCA, 1978), the effect of a declaratory statement is one involving the principle of stare decisis, and not res judicata.

23. In summary, it is held that the petitioners, as pending applicants for a consumptive use permit exceeding the limitations imposed by the water crop rule, have standing as substantially affected persons to challenge the validity of that rule. It is further held that all of the intervenors, as water suppliers within the jurisdictional confines of the respondent SWFWMD and therefore subject to its rules, have a sufficient interest in the proceeding so as to allow them to intervene as parties.

24. The remaining issue for determination in this proceeding is whether Rule 16J-2.11(3) constitutes an invalid exercise of delegated legislative authority. Chapter 373, Part II, Florida Statutes, is the legislative act which governs the permitting of consumptive uses of water. Section 373.223(1), Florida Statutes, lists the statutory criteria required to be met prior to the issuance of a consumptive use permit. That section reads as follows:

> 373.223. Conditions for a permit.-
> (1) To obtain a permit pursuant to the provisions of this chapter, the applicant must establish that the proposed use of water:
> (a) Is a reasonable beneficial use as defined in s. 373.019(5); and
> (b) Will not interfere with any presently existing legal use of water; and
> (c) Is consistent with the public interest.

A "reasonable-beneficial use" is defined in 373.019(4) as

> "the use of water in such quantity as is necessary for economic and efficient

> utilization for a purpose and in a manner which is both reasonable and consistent with the public interest."

Section 373.171, Florida Statutes, empowers the respondent SWFWMD to promulgate rules and regulations not inconsistent with other provisions of Chapter 373.

25. The rule in question herein, Rule 16J-2.11, lists in subsection (1) the three statutory conditions for a CUP contained in Florida Statutes, 373.223(1). The rule then goes on to state several instances wherein a CUP will be denied. One of these conditions is the challenged portion of Rule 16J-2.11; to wit, subsection (3) which states that the

> "issuance of a permit will be denied if the amount of water consumptively used will exceed the water crop of lands owned, leased, or otherwise controlled by the applicant.

Thus, the challenged portion of the rule adds a fourth criterion to the three statutory criteria set by the legislature. The undersigned has carefully searched the statutory provisions of Chapter 373 for any indication of authority for SWFWMD to add the water crop rule as a condition to the consumptive use permitting process. No such authority can be found.

26. No agency has inherent rulemaking authority. Florida Statutes, Section 120.54(14). The authority of administrative agencies is derived from the Legislature. When the Legislature has clearly set forth the criteria to be utilized in evaluation of permits, an administrative rule which enlarges those criteria by the addition of a further criterion is invalid. The fourth criterion added by the respondent requires an applicant to own, lease or otherwise control one acre of land for every 1,000 gallons of water per day applied for in the permit application. This requirement ties water withdrawal to land ownership, and there is no legislative authority for such a requirement. An agency can exercise its authority only as prescribed by statute, and prescribed statutory criteria must be observed. A statute enacted by the Legislature which sets conditions for a permit may not be amended by an administrative agency by promulgating a rule which adds further conditions. Likewise, the "reasonable beneficial use" standard contained in 373.223(1)(a) and defined in 373.019(4) cannot be restricted to 1,000 gallons per day per acre on land owned, leased or otherwise controlled by an applicant. As pointed out in the case of City of Cape Coral v GAC Utilities, Inc. of Fla., 281 So 2d 493 (Fla. 1973), any reasonable doubt as to the lawful existence of a particular power that is being exercised by an administrative agency must be resolved against the exercise thereof, and the further exercise of the power should be arrested. In this instance, there is no legislative authority for SWFWMD to enact a rule which establishes the water crop concept as a condition for granting or denying a consumptive use permit.

27. The respondent urges that the requirement of the challenged rule is not a mandatory criterion for the issuance of a permit, and thus it does not conflict with the statutory conditions listed in 373.223(1). As evidence of this contention, SWFWMD points to the exception provision of subsection (5) of the rule, and claims that subsection (3), the water crop rule, is only utilized as a threshold tool for evaluating permit applications. The established administrative interpretation by an agency of its own rules should be accorded great weight, and the undersigned does accord great weight to the agency's interpretation and established implementation of the water crop rule in a

permissive fashion. Nevertheless, there is no statutory authority to make water withdrawal levels dependent in any manner upon land ownership. The exception provision of subsection (5), while indicating the nonmandatory intent of subsection (3), is of no avail in establishing the validity of the challenged water crop rule. It contains no standards for its application and permits unbridled discretion on the part of SWFWMD in granting or denying exceptions.

28. In addition to the fact that the Legislature did not delegate to the water management districts the authority to set water withdrawal levels according to the amount of land owned, leased or controlled, the water crop rule conflicts with the Florida Supreme Court's decision in Village of Tequestra v. Juniper Inlet Corp., 371 So.2d 663 (Fla. 1979). The water crop rule states the amount of water available throughout the District. In effect, it reserves water to those owners of land within the District who have not applied for a permit but who may wish to use the water in the future. The Tequestra case recognizes that Chapter 373 makes no provision for the continuation of an unexercised common law right to use the water under one's land.

29. Finally, the evidence adduced at the hearing clearly illustrates that the water crop theory cannot be used to accurately determine the amount of water which can be consumptively used on any specific piece of land. This is due to the variety of hydrological factors which must be considered for each given parcel of land and the wide variety of such factors throughout the District. The witnesses presented by the respondent agreed that from a regulatory standpoint, a CUP should never be denied based solely upon the water crop rule. To do so would be hydrologically invalid. As such, it must be concluded that the water crop rule is arbitrary and capricious in nature and is an unsound method of regulating and determining the issuance of consumptive use permits.

30. The conclusions of the Florida Joint Administrative Procedures Committee are not binding on a Division of Administrative Hearings Hearing Officer in reaching a determination as to the validity of a rule under Chapter 120. For this reason, the evidence adduced at the hearing regarding this issue is deemed irrelevant and immaterial.

31. In summary, it is the conclusion of the undersigned Hearing Officer that the challenged water crop rule is invalid in that it exceeds SWFWMD'S statutory authority, it impermissibly conflicts with Chapter 373, Florida Statutes, it creates property rights to water contrary to Chapter 373 and the decision of Village of Tequestra v. Jupiter Inlet Corp., 371 So.2d 663 (Fla. 1979) and it is hydrologically unsound and accordingly arbitrary and capricious in nature.

## FINAL ORDER

Based upon the findings of fact and conclusions of law recited above,

IT IS ORDERED THAT Rule 16J-2.11(3), Florida Administrative Code, constitutes an invalid exercise of delegated legislative authority and is therefore declared invalid.

Done and ordered this 9th day of April, 1980, in Tallahassee, Florida.

DIANE D. TREMOR, Hearing Officer
Division of Administrative Hearings
Room 101, Collins Building
Tallahassee, Florida 32301
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ENDNOTE

1/ At the time of the hearing, condemnation proceedings were pending whereby Pasco County is condemning the Pasco Water Authority, including the Contract to supply water between it and Pinellas County.

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