

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

WILLIAM G. and PATRICIA H.	)	
MELLOR, et. al.,	)	
	)	
Petitioner,	)	
and	)	
	)	
LEE COUNTY, FLORIDA,	)	CASE NO. 83-082
	)	
Intervenor,	)	
	)	
vs.	)	
	)	
SOUTH FLORIDA WATER MANAGEMENT	)	
DISTRICT and COUNTY LINE	)	
DRAINAGE DISTRICT,	)	
	)	
Respondents.	)	
_____	)	

RECOMMENDED ORDER

Pursuant to notice, this cause came on for administrative hearing before P. Michael Ruff, duly designate Hearing Officer of the Division of Administrative Hearings, on April 20, 1983, at Fort Myers, Florida.

APPEARANCES

For Petitioners:	William H. and Patricia H. Mellor pro se 5829 Riverside Lane Fort Myers, Florida 33907 and James D. English, Jr., pro se Route 2, Box 85 Alva, Florida 33920
For Intervenor:	Marilyn Wnek Miller, Esquire John Tileston, Esquire Post office Box 398 Fort Myers, Florida 33902-0398
For Respondent:	Anne Longman, Esquire County Line Terry L. Lewis, Esquire Drainage District Post Office Box 1876 Tallahassee, Florida 32301
For Respondent:	Irene Kennedy Quincey, Esquire South Florida Post Office Box "V" Water Management West Palm Beach, Florida 33402 District

This cause was initiated on an application filed August 16, 1982, by William Taylor, as President of County Line Drainage District (CLDD), wherein CLDD requested a permit for the use of District lands and works of the Respondent South Florida Water Management District (SFWMD). This project is located in all or parts of Sections 13 and 14; Township 43 South; Range 27 East, Lee County, Florida. The permit would authorize the use of a strip of land adjoining SFWMD's Spoil Area "M." SFWMD, on August 5, 1982, informed CLDD by letter that in order to continue using part of a certain spoil area owned by the District in Lee County, Florida, that CLDD apply for a permit authorizing "use of the works of the District." CLDD accordingly made application for such a permit on August 16, 1982. That application was supplemented twice upon a SFWMD request in October, 1982, and in February, 1983. In essence, CLDD seeks to use the west, north and east perimeter or rim canals of Spoil Area "M" owned by SFWMD, which it has used since approximately May of 1972. It seeks to continue draining or moving water from its land north of the spoil area into these rim canals and through a ditch beginning at a point 50 feet north of the northwest corner of the Mellor property, running southwest across the Daniels' property into Spanish Creek. The surface water from CLDD lands would thus be discharged from the western rim ditch of Spoil Area "M" into the "Daniels' ditch" and thence into Spanish Creek and the Caloosahatchee River. This operation was originally inaugurated by an agreement between CLDD and the Central and South Florida Flood Control District (C&SFFCD), the predecessor of SFWMD, entered into on October 12, 1972, authorizing CLDD an easement and a 100 foot wide strip of land running along the west, north and east sides of Spoil Area "M" (the rim ditches). Because of the change in the SFWMD statutory authority, the easement could not be renewed and at the end of the 10-year easement period, SFWMD notified CLDD that it would have to seek a "right-of-way" permit for use of works of the District in order to continue its drainage and water discharge plan and operation as it had been conducted theretofore.

The permit was accordingly applied for and SFWMD's staff recommended permit approval. Petitioners William H. Mellor, Patricia H. Mellor and James D. English filed requests for formal hearing on December 27, 1982. A Motion for Leave to Intervene by Lee County was granted on the basis of its having alleged sufficient potential injury within the proper zone of interest protected by Chapter 373, Florida Statutes, so that it was entitled to participate in this Proceeding and present proof of its alleged potential injury, that is, the feared damage caused by the continuation of the subject drainage to a major portion of the County's potable water supply from the Caloosahatchee river.

At the hearing, the Respondents presented 3 witnesses and 11 exhibits in support of the permit application. All the exhibits were admitted into evidence. The Petitioners in opposition to the grant of the proposed permit, the Mellors and Mr. English, presented 3 witnesses and Exhibits A through N. Exhibits D, G and M were not admitted into evidence. Lee County presented one witness. At the conclusion of the proceeding the parties requested the benefit of a transcript of the proceedings and requested an extended briefing schedule, which was granted. Proposed findings of fact and conclusions of law were thus timely submitted on June 10, 1983.

All proposed findings of fact and supporting arguments of the parties have been considered. To the extent that the proposed findings and conclusions submitted by the parties, and the arguments made by the them, are in accordance with the findings, conclusions and views stated herein, they have been accepted, and to the extent that such proposed findings and conclusions of the parties, and such arguments made by the parties, are inconsistent therewith, they have been rejected. Certain proposed findings and conclusions have been omitted as

not relevant or as not necessary to a proper determination of the material issues presented. To the extent that the testimony of various witnesses is not in accord with the findings herein, it is not credited.

The issue to be resolved concerns whether the right-of-way permit for utilization of works and lands of the SFWMD, to permit CLDD to continue to use the west, north and east portions of the drainage ditch surrounding Spoil Area "M", should be granted and, necessarily, whether reasonable assurances have been provided that the requested use of the District works and land is consistent with applicable standards contained in Chapter 373, Florida Statutes, and Chapter 40E-6, Florida Administrative Code.

#### FINDINGS OF FACT

1. The CLDD was established pursuant to Chapter 298, Florida Statutes, on August 4, 1967. Its purpose was to "reclaim" or render the land within its boundaries usable for agricultural purposes. The land comprising the CLDD consists of approximately 3,500 acres in Lee County, mostly planted in citrus trees. Pursuant to the requirements of Chapter 298, Florida Statutes, a "Plan of Reclamation" was prepared by consulting engineers for the CLDD's Board of Supervisors in August, 1967. That plan contains provisions for reclaiming lands within the CLDD's boundaries and for managing and controlling surface water within CLDD.

2. The method of water control outlined in the 1967 reclamation plan included a dike and ditch system around the boundaries of CLDD with a series of interior canals to carry excess water away from the citrus trees. The land in the north part of the CLDD is higher than the south and water generally, naturally flows from north to south. The interior canals were designed to carry water in accordance with existing contours of the land and eventually discharge excess surface water to the rim ditches on the north and east sides of Spoil Area "M," which is south of the CLDD and which was then owned by the C&SFFCD, the predecessor agency to SFWMD. The system of drainage delineated in that 1967 plan, inaugurated pursuant to Chapter 298, Florida Statutes, was put into effect substantially as described therein.

3. CLDD's 1967 plan was altered somewhat because of an agreement entered into on September 30, 1971, between the CLDD and neighboring landowner Kenneth Daniels. Pursuant to that agreement, the two parties agreed to extend the dike on the west side of the CLDD property and construct a ditch from a point 50 feet north of the northwest corner of the Petitioner Mellor's property, which new ditch was to run southwest across the Daniels' property and connect with Spanish Creek. That ditch or canal would thus connect the western rim ditch of the SFWMD's Spoil Area "M" with Spanish Creek and have the result that surface waters could be discharged from CLDD lands through the western rim ditch of Spoil Area "M" thence through the "Daniels' Ditch" finally discharging into the lower reaches of Spanish Creek. (see Exhibits 1 and 11)

4. Because the western side or western rim canal of the SFWMD's Spoil Area "M" had not been used under the original plan of reclamation approved by the C&SFFCD, CLDD sought permission from C&SFFCD to use this western rim canal for the purpose stated pursuant to the agreement with Daniels. Thus, CLDD's proposed use of the rim canal of Spoil Area "M" would be confined to the western, northern and eastern perimeter canals and not the southern boundary canal. All affected landowners, Kenneth Daniels as well as Jake and Lilly Lee, agreed to those proposed installations and uses. The resulting agreement between CLDD and C&SFFCD was entered into on October 12, 1972, and describes the

flood control District land to be used by CLDD as a 100 foot wide strip running along the west, north and east sides of Spoil Area "M," also know as "Aspic." This 100 foot wide strip of land running thusly is co-extensive with the rim ditch of Spoil Area "M." The CLDD was mandated by this agreement to install 72-inch pipes in the rim ditch at the southwest corner of the spoil area, just north of the Mellor property, giving a point of discharge from the western rim ditch into the Daniels' Ditch with similar pipes connecting that Daniels' Ditch with Spanish Creek, such that the canal between these two points could carry water from the west rim ditch to Spanish Creek.

5. The easement incorporated in this agreement was to last for five years with an option for a five-year renewal, which option was exercised. At the end of this 10-year period, SFWMD, successor to C&SFFCD, notified CLDD that because its statutory authority had since changed, the easement could not be renewed and that CLDD would have to seek the subject permit so as to be authorized to use works and lands of the District.

6. The requirements to be met by an applicant for a right-of-way permit such as this one are set out in Rule 40E-6.301, Florida Administrative Code, and SFWMD's permitting information manual, Vol. V, Criteria Manual for Use of Works of the District, July, 1981, which is incorporated by reference in that rule. In that connection, the permit at issue, if granted, would not cause an interference with the "works" of the District, that is dikes, ditches, flood control structures and drainage structures because it would merely renew the pre-existing authorized use. The permit will not be inconsistent with an comprehensive water use plan developed by the District. Further, the permit applicant owns or leases the land adjacent to the portion of the "works of the District" involved herein that is the east, north and west rim ditches of Spoil Area "M," the Daniels' Ditch and the pipes at either end of it coupled with the water control structures at the southeast corner and southwest corners of Spoil Area "M," which control water entering the south rim ditch.

7. CLDD has a surface water management permit, issued in August, 1980, which is a prerequisite to the granting of the subject right-of-way permit. It remains in full force and effect. That surface water management permit authorizes "operation of a water management system serving 3,642 acres of agricultural lands by a network of canals and control structures, with a perimeter dike and canal discharging into Cypress Creek." The "surface permit" authorized the system of drainage and discharge in existence at the time of its issuance, May 8, 1980. The system of drainage, at the day of the hearing, consisted of the same basic water flow and discharge pattern that existed for approximately 10 years, and this permit would allow that to be continued, thus, there will not be any additional effect on environmentally sensitive lands occasioned by an issuance of the subject right-of-way permit.

8. The surface water management permit, by its terms, refers initially to the operation of a water management system" . . . discharging into Cypress Creek." The reference to "Cypress Creek" was an administrative error. The express language on the face of the permit authorization incorporates by reference the application, including all plans and specifications attached thereto, as addressed by the staff report, and those materials, including the staff report, are a part of the permit. The complete permit, including all those documents incorporated by reference, makes it clear that the authorization of the surface water management permit was that the system of drainage in existence at the time of permit issuance (1980) was that which was being approved, and that included discharge to Spanish Creek and not Cypress Creek. Discharge of water to Cypress Creek as an alternative was never recommended or

authorized by that surface water management permit. This is clearly the intent expressed in the permit in view of the language contained in a special condition of that surface water management permit imposed by the SFWMD as a condition for issuance which stated as follows:

Within 45 days of the issuance of this permit the permittee shall submit for staff approval a proposal and schedule for the elimination of the adverse impacts being created by the operation of the permittee's water management system, which can be legally and physically accomplished by the permittee. Adverse impacts are considered herein to be reduced flows to Spanish Creek and increased flows to Cypress Creek.

Thus, it is obvious that the authorization of the surface water management permit was designed to provide for discharge into Spanish Creek and to enhance the flows to Spanish Creek pursuant to a required proposal which the permittee submitted to SFWMD. Thus, the right-of-way permit applied for herein is consistent with the valid surface water management permit held by the permit applicant in this proceeding.

9. Petitioners William H. and Patricia H. Mellor are co-owners of parcels of property lying some distance south of Spoil Area "4" in the vicinity of the Caloosahatchee River. This property does not abut the spoil area at any point. Spanish Creek does cross their property several thousand feet south of the south boundary of the spoil area. In the past, particularly in 1982, water flowing from the south rim ditch of the spoil area through a break in the dike of that south rim ditch, has flowed through a ditch known as Dry Creek in a generally southerly direction under S.R. 78 and has washed out an access road constructed by William Mellor which leads from Highway 78 to his property. He had this washout repaired at his own expense in 1982. The washout was caused by water from CLDD flowing into the south rim canal of Spoil Area "M," that is, the ditch that traverses (and defines) the southerly boundary of the spoil area. Mr. Mellor admitted, however, that SFWMD had at least partially plugged the opening in the south rim ditch which had allowed flow down the Dry Creek ditch and wash out his road. If closed water control structures are maintained at the southwest and southeast corners of the spoil area ditches, then no water could flow into the south rim canal and no such injury could again be caused.

10. Petitioner's Jim English and Patricia Mellor are co-owners of a 45-acre parcel of land located in the southwest corner of Spoil Area "M." The five acres forming the extreme southwest corner of the spoil area do not belong to these Petitioners, but are owned by one Lynwood Brown, who is not a party to this proceeding. The English/Mellor property forms a part of the spoil area, but does not adjoin or constitute any part of the spoil area which is sought to be used by CLDD through the proposed right-of-way use permit (as clarified by CLDD's stipulation). The south rim ditch, either part of, or adjoined by their property, has been used for water storage in the past (they maintain illegally)

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11. Mr. Tom Pancoast has observed Spanish Creek frequently over a nine-year period starting in approximately 1973. He has often used those waters during that period for fishing. During the early years of his use and observation of Spanish Creek, the water flowed out of Spanish Creek into the Caloosahatchee River. Beginning in about 1976, the water appeared to be flowing

in the opposite direction, from the river into Spanish Creek. Contemporaneous with this hydrologic change, the creek has become increasingly characterized by siltation and hyacinth growth. Mr. William Mellor owns property along the course of Spanish Creek. He has used the stream for recreational purposes, picnicking where the stream traverses his property. In recent years there has occurred a marked increase in the growth or profusion of aquatic plants of unidentified types in the creek, reduced clarity and reduced flows or volumes of water in the creek. Witness English has made a similar observation.

12. Witness James English has a substantial degree of training by formal education and experience in water management and drainage practices and methods, particularly as they relate to citrus grove development and management in southwest Florida. Mr. English has observed Spanish Creek regularly for most of his life, including the region of its headwaters in the "Cow Prairie Cypress," a remnant wetland cypress strand lying within the CLDD immediately north of Soil Area "M." The chief adverse impact of the CLDD water management system is reduced flow to Spanish Creek, especially its upper reaches since the advent of the "Daniels' Ditch" as a drainage route and discharge point into lower Spanish Creek. However, the only special condition on the issuance of the surface water management permit approving CLDD's extant water management system was the requirement that CLDD should submit a plan for eliminating that adverse effect, which it did (as Petitioner English admits). Beyond the submission of such a plan, no concrete action designed to restore historic flows to Spanish Creek has yet begun, however. The restoration of historic flows, adequate in volume and quality, to the entire creek system would require discharging water from CLDD's system to the Cow Prairie Cypress area at the headwaters of the creek rather than substantially further downstream at the present Daniels' Ditch site.

13. The Petitioners' complaints (aside from the issue of adequacy of flows in Spanish Creek), although meritorious, are, because of stipulations asserted by CLDD during the course of this proceeding, now rendered moot. CLDD stipulated that it only seeks a permit to use the west, north and eastern spoil area ditches. It does not seek and stipulated that it will not use, at any time, the south rim ditch and will maintain water control structures so to block water from entering that ditch. This will alleviate the problem of potential storage of water on Petitioners English and Patricia Mellor's property and the erosion problem on Petitioners William and Patricia Mellor's property south of the spoil area. It was thus established that the issuance of the right-of-way permit will not cause the injuries these Petitioners have suffered in the past because of use of the south rim ditch for water drainage and storage.

#### CONCLUSIONS OF LAW

14. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. Section 120.57(1), Florida Statutes.

15. Petitioners Patricia Mellor, William Mellor and James D. English have standing to object to the Respondent CLDD's request for a permit for use of District works and lands. The injuries alleged by Petitioners related to excess storage of water on their land in the south rim ditch, the past and potential future erosion of the access road with regard to Patricia and William Mellor's property are injuries which a proceeding of this type is designed to address and protect pursuant to Rule 40E-6.301 (1)(a) and (e), Florida Administrative Code. Thus, the Petitioners were entitled to participate in this proceeding in an attempt to prove those injuries in fact, which are relevant to this type of proceeding and which they proved had occurred in the past. Evidence adduced by

the permit applicant, however, together with CLDD's stipulation, reveals that indeed the south rim ditch will not be used and will be closed off so that water from the CLDD drainage system will not enter that ditch and thus the feared injuries cannot occur and have not been proven. Water will not reach the south ditch so as to be stored there nor will it overflow into the Dry Creek ditch and flood the Mellor's road.

16. Rule 40E-6.301(1)(c), Florida Administrative Code, requires that the proposed use not degrade the water quality of the receiving water body. The use proposed here is merely a continuation of the use already existing and authorized for approximately 10 years. In that regard, Rule 40E-6.301(2)(c), Florida Administrative Code, requires that a surface water management permit be issued before a right-of-way permit will be granted. The Respondent CLDD has established that permit #36-00184-S was issued for the operation of the existing citrus grove and CLDD's existing water management plan and Petitioners have not disputed its existence. This 1980 permit clearly takes into consideration problems alleged by the Petitioners here concerning water quality and volume in Spanish Creek because it specifically requires, under the special conditions section, that CLDD make a proposal within 45 days to ameliorate the problem of reduced flows to Spanish Creek. Thus, that surface water management permitting process addressed the very complaints raised by the Petitioners and thus necessarily involved the decision that the discharge into Spanish Creek was substantially the same one described in the current right-of-way permit application and that it was appropriate, aside from the above special condition. The right-of-way permit application is therefore consistent with its previously granted surface water management permit.

17. While the Petitioners have alleged harm to their substantial interests by the alleged degradation of water and insufficiency of flows in Spanish Creek, the evidence adduced fails to indicate that the discharge into Spanish Creek contemplated in the instant permitting process is any different in character, amount or deleterious effects than that authorized by the 1980 surface water management permit and the previous easement permitting use of the ditches involved. This proceeding is designed simply to determine if the right-of-way permit, "continuing a preexisting unchanged use, should be issued. Thus, this particular injury alleged is not of a type or nature which the instant proceeding is designed to protect (as opposed to the original surface water management permitting process), and the Petitioner's have the option of instigating an enforcement action either by SFWMD, or by a court of competent jurisdiction through its equity powers, if the condition under which the surface water management permit was issued, that is the required reduction of adverse effects on flows of Spanish Creek, is not complied with. Since the Petitioners have not proved the issuance of this permit is casually, related to, or would have any effect on this alleged injury, the "nexus" requirement for standing to this extent has not been met. *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So.2d 478, 479 (Fla. 2d DCA 1981); see generally, *Suwannee River Area Council Boy Scouts of America v. Department of Community Affairs*, 384 So.2d 1369 (Fla. 1st DCA 1980). See, also, *In the Matter of: Petition for Formal Proceedings on Modification of Permit No. 36-00142-5, East County Water Control District*, 4 F.A.L.R. 2784-A, December 13, 1982.

18. Although the Intervenor Lee County sufficiently alleged standing to permit it to participate in opposition to the permit request of Respondent CLDD, Lee County did not present any evidence probative of its alleged "injury-in-fact" upon which standing was predicated in that it failed to show any concrete evidence of harm to its water supply in the Caloosahatchee River.

19. Section 373.085(1), Florida Statutes (1981), provides that the Governing Board of the Water Management District has authority to prescribe:

[T]he manner in which local works provided by other districts or by private persons shall connect with and make use of the works of the district, to issue permits therefor, and to cancel the same for noncompliance with the conditions thereof, or for other cause. It shall be unlawful to connect with or make use of the works of said district without consent in writing from its governing board, and said board shall have authority to prevent, or if done, to estop or terminate the same.

20. The rules which guide SFWMD in implementing this grant of authority are found at Chapter 40E-6, Florida Administrative Code. The purpose of this chapter is to establish a permitting system to "insure that uses are compatible with construction, operation, and maintenance of the works of the District." Rule 40E-6.011, Florida Administrative Code.

21. The "conditions for issuance of permits" under this chapter, at Rule 40E-6.301, speak generally to whether the uses to be made of the works of the District are appropriate. The rule itself provides in pertinent part:

(1) In order to obtain a permit under this Chapter, an applicant must give reasonable assurances that the proposed use of works of the District:

(a) Will not interfere with the construction, alteration, operation, or maintenance of the works of the District.

(b) Is not inconsistent with the overall objectives of the comprehensive water use plan developed by the District.

(c) Does not degrade the quality of the receiving body and meets the standards of the Florida Department of Environmental Regulation for the receiving body. The board may waive the strict enforcement of this provision.

(d) Meets the general and specific conditions and criteria in the District's "Criteria Manual for Use of Works of the District - June, 1981."

(2) The following conditions and criteria shall also be met:

(b) The applicant must own or lease the land adjacent to or served by the portion of the works of the District involved.

(c) If the use involves the construction of facilities for a non-exempt water withdrawal or surface water discharge the applicant must apply for and obtain a water use or surface water management permit before the right-of-way occupancy permit will be granted.



22. CLDD presented competent, substantial evidence and testimony in the form of the testimony of its expert witness and professional engineers Ken Harris and Tom Fratz, the SFWMD permit administrator, plus documentary evidence, demonstrating that it has complied with the above rules. The Petitioners presented no evidence that CLDD had not met the conditions imposed by the above rules, aside from their contention and evidence concerning CLDD's surface water management permit as being insufficient to satisfy Rule 40E-6.3 1(2)(c) CLDD has met the precondition in that it has been issued the surface water management permit and has therefore met the literal requirement that the applicant have a surface water management permit before the right-of-way occupancy permit will be granted. Petitioners contend, however, that it must also be shown that the surface water management permit when issued contemplated the actual use of works of the District (discharge to Spanish Creek), now sought to be permitted. In that regard, when the surface water management permit was issued in 1980, the drainage system in existence then, pursuant to the easement agreement and with which that permit was concerned, was in all material respects identical to that which exists now for which the subject permit is sought. As found in the above Findings of Fact, the various documents, including the staff report issued during the consideration of the application for the surface water management permit and incorporated in the permit, render it obvious that the SFWMD's 1980 action issuing the surface water management permit also approved the then and now existing CLDD off-site discharges from the spoil area rim ditch into Spanish Creek.

23. Since 1972, the applicant has properly discharged water from the southwest corner of the spoil area into Spanish Creek (and from the southeast corner of the spoil area into Millers' Gully). When the SFWMD exerted surface water management jurisdiction over CLDD in 1980, and issued that permit, necessarily authorizing the already existing discharges, the permit clearly took into account the problems alleged by the Petitioners herein by stating under its "special conditions" section that CLDD should make a proposal, within a time certain, to ameliorate reduced flows to Spanish Creek. Since the surface water management permit addresses the very complaints raised by these Petitioners, it is logical to conclude that the discharge it authorized was substantially similar to that described in the current application. The instant permit application, thus, is consistent with and does not alter or vitiate the previously issued surface water management permit. It merely takes the place of the outdated 1972 agreement. If the CLDD fails to comply with either the surface water management permit or its right-of-way permit, including the "special condition," it will be subject to appropriate enforcement action. In short, the Respondent CLDD has demonstrated by a preponderance of the evidence, reasonable assurances that the above requirements of Rules 40E-6.301(1)(a), (b), (c) and (d); and 40E-6.301(-2)(b) and (c), Florida Administrative Code, have been satisfied. Petitioners have not presented sufficient competent, substantial evidence to refute the showing by the permit applicant that reasonable assurances of compliance with the above rules have been provided. Florida Department of Transportation v. J.W.C. Company, 396 So.2d 778, 788 (Fla. 1st DCA 1981).

#### RECOMMENDATION

Having considered the foregoing Findings of Fact, Conclusions of Law, the evidence in the record and the candor and demeanor of the witnesses, it is, therefore

RECOMMENDED:

That the South Florida Water Management District grant the County Line Drainage District's application for a permit for utilization of works and lands of the District. Subject to the following special condition:

1. Issuance of this right-of-way permit does not relieve the Respondent CLDD from the responsibility of complying with special condition number 1 of the surface water management permit number 36-00184-S.

2. Respondent CLDD shall, within 30 days of date of permitting, submit a design to the satisfaction of the SFWMD staff which will prevent the ability of CLDD to discharge to the southern rim ditch, described above.

DONE and ENTERED this 29th day of September, 1983, in Tallahassee, Florida.

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P. MICHAEL RUFF  
Hearing Officer  
Division of Administrative Hearings  
The Oakland Building  
2009 Apalachee Parkway  
Tallahassee, Florida 32301  
(904) 488-9675

Filed with the Clerk of the  
Division of Administrative Hearings  
this 29th day of September, 1983.

ENDNOTES

1/ Questions involving title to the land encompassing the south rim ditch and the rights appurtenant thereto, including storage of water on that land, are properly matters to be entertained by a Circuit Court with plenary jurisdiction.

COPIES FURNISHED:

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