STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

GLORIA S. ELDER, Petitioner, vs. CARGILL FERTILIZER, INC., FORT MEAD MINE, and SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, Respondents.	)	CASE NO. 92-6215

RECOMMENDED ORDER

A hearing was held in this case in Bartow, Florida on March 16, 1993, before Arnold H. Pollock, a Hearing Officer with the Division of Administrative Hearings.

APPEARANCES

For the Petitioner:	Joseph N. Baron, Esquire 3375-A U.S. Highway 98 South Lakeland, Florida 33803
For the Respondent: Cargill Fertilizer, Inc., Fort Meade Mine:	Rory C. Ryan, Esquire 200 South Orange Avenue, Suite 2600 Post Office Box 32801 Orlando, Florida 32801
Southwest Florida Water Management District:	Martin D. Hernandez, Esquire Richard Tschantz, Esquire 2379 Broad Street Brooksville, Florida 34609

STATEMENT OF THE ISSUES

The issue for consideration in this case is whether Respondent, Southwest Florida Water Management District should approve Individual Water Use Permit Application No. 202297.05 to Respondent Cargill Fertilizer, Inc., for its Fort Meade Mine operation.

PRELIMINARY MATTERS

By letter dated July 31, 1992, the Respondent, Southwest Florida Water Management District, (District), advised Respondent, Cargill Fertilizer, Inc., (Cargill), that it proposed to approve the Individual Water Use Permit cited above to Cargill for its use at the Fort Meade Mine outside Fort Meade, Florida. Thereafter, on August 17, 1992, Mr. Baron, counsel for Mrs. Elder, Petitioners herein, filed a Petition Requesting Formal Proceedings in opposition to the proposed approval, and this hearing followed.

The hearing was initially scheduled for February 24 - 26, 1993, but upon Petitioner's Motion for Continuance, based on counsel's ill health, the hearing was rescheduled for March 16 - 18, 1993. In his Motion, counsel had requested continuance until after March 15, 1993.

On February 25, 1993, Mrs. Elder again moved for an additional continuance, this time citing as the reason therefor, the fact that her counsel had been suspended from the practice of law for 90 days and she had been unable to find other qualified counsel to assist her in her preparation for hearing. In the interim, Mrs. Elder had failed to comply with several discovery requests by Respondent, Cargill, and on March 2, 1993, after a telephone conference call on the Motion to Continue and Respondent's motions in support of discovery, the undersigned denied Petitioner's motion for further continuance and ordered her to comply with Respondent's discovery requests including submission to deposition and allowing Respondent's technicians onto her property to take well water samples.

Thereafter, on March 12, 1993, another telephonic conference call was held with Respondents and the undersigned. Petitioner had been advised of the call and had been invited and encouraged to participate, but when an effort was made to connect her to the conference, she was unavailable. Notwithstanding this, the hearing was held on Respondents' motions to impose evidentiary sanctions as a result of her failure to comply with the terms of the undersigned's March 2, 1993 Order, and an Order was entered at the close of the conference call imposing sanctions prohibiting Petitioner from testifying at the formal hearing to be held on March 16, 1993 as to any matter discoverable at the deposition at which she failed to appear. Petitioner was also precluded from presenting any evidence at the hearing regarding those matters which could have been determined by her compliance with the discovery requests.

Petitioner appeared at the formal hearing with her counsel, whose suspension from the practice of law had expired the previous day. Counsel immediately moved for a continuance based on Petitioner's alleged inability to secure qualified counsel to represent her during the time of the discovery controversy, and to prepare for hearing. This motion was denied by the Hearing Officer. Notwithstanding the Hearing Officer's invitation to remain at the hearing and participate therein within the parameters defined by the sanctions Order previously entered, which would have allowed Petitioner to cross examine all Respondents' witnesses, to call witnesses whose testimony was not the subject of a dishonored discovery request, to object to Respondent's evidence, and to argue on the merits of the case, Petitioner and her counsel declined to participate and left the hearing room, not to return for the remainder of the hearing. The hearing proceeded without them.

At the hearing, Cargill presented the testimony of Thomas E. Myers, III, Reclamation and Permitting Manager at the Fort Meade Mine, and Thomas L. Coulter, Cargill's laboratory supervisor and a certified drinking water operator in Florida. Cargill also introduced Cargill Exhibits A through M. The District presented the testimony of Michael K. Balser, a Hydrologist III, and Brian S. Starford, a Water Use Permitting Supervisor for the District. It also presented District Exhibit 1.

A transcript was provided, and subsequent to the hearing, the Respondents jointly submitted Proposed Findings of Fact which have been accepted and are, as appropriate, incorporated herein.

FINDINGS OF FACT

1. At all times pertinent to the issues herein, Respondent, Cargill, a Delaware corporation authorized to do business in Florida which owned and operated a phosphate mine near Fort Meade, located in Polk County Florida. Petitioner, Gloria Elder, owns residential property adjoining the Fort Meade Mine on which she maintains an individual water well for domestic and other purposes. The Respondent, District, has the responsibility for regulating the consumption and conservation of ground and surface water within its jurisdictional limits, including the well in question.

2. For a period prior to December, 1990, Cargill had been operating under consumptive use permit No. 202297.04, issued by the District, which provided for average daily withdrawals of 12.0 MGD from wells on its property. In addition to the 12.0 MGD, Cargill also was utilizing an additional 3.3 MGD for mine pit and surficial aquifer dewatering activities which did not have to be reflected in the permit but which were lawful uses.

3. In December, 1990, Cargill submitted its application to renew the existing water use permit with a modification including the 3.3 MGD previously being used but not officially permitted. No additional water would be drawn from the permitted wells as the newly applied for 15.3 MGD was the total of the 12 MGD and 3.3 MGD previously permitted and lawfully used.

4. After reviewing the additional information requested of Cargill pertaining to this application, the District published its Notice of Proposed Agency Action for approval of the permit. The proposed permit authorizes withdrawal of the amount requested in the application, 15.3 MGD, the exact same amount actually withdrawn under the prior permit. As a part of the proposed permit the District imposed two special conditions. These conditions, 12 and 13, require Cargill to conduct its dewatering activities no closer than 1,500 feet to any property boundary, wetlands, or water body that will not be mined or, in the alternative, to mitigate pursuant to conditions 12 and 13 any activities conducted within the 1,500 foot setback.

5. There are no reasonable alternatives to Cargill's request. The mining process in use here utilizes a water wash of gravel-size phosphate ore particles out of accompanying sand and clay. The water used for this purpose is recycled and returned to the washer for reuse. The resulting phosphate ore mix, matrix, is transported with water in slurry form to the refining plant. This system in the standard for phosphate mining in the United States. Once at the plant, the slurry is passed through an amine flotation process where the sand and phosphates are separated. This process requires clean water with a constant Ph balance and temperature which can be retrieved only from deep wells.

6. Even though the permit applied for here calls for an average daily withdrawal of 15.3 MGD, typically the Cargill operation requires about 10.08 MGD from deep wells. This is a relatively standard figure within the industry. Approximately 92 percent of the water used at the site in issue is recycled. However, recycled water is not an acceptable substitute for deep well water because it contains matters which interfere with the ability of the chemical reagents utilized in the process to react with the phosphate rock. Therefore, the quantity sought is necessary and will support a reasonable, complete mining operation at the site.

7. The Cargill operation is accompanied by a strenuous reclamation operation. Land previously mined near the Petitioner's property has been

reclaimed, contoured, re-grassed and re-vegetated. This project was completed in 1990. No evidence was introduced showing that Cargill's operation had any adverse effect on the Elders' well. Water samples were taken from that well at the Petitioner's request in May, 1991 in conjunction with the investigation into a previous, unrelated complaint. These samples were submitted to an independent laboratory for analysis which clearly demonstrated that the minerals and other compounds in the water from the Petitioner's well were in amounts well below the detection level for each.

8. Only the iron level appeared elevated, and this might be the result of deterioration of the 18 year old black iron pipe casing in the well. Another possible explanation is the fact that iron is a common compound in that part of the state. In any case, the installation of a water softener would remove the iron, and there is no indication the water would have any unacceptable ecological or environmental impacts in the area either on or off the site. No other residents in the area have complained of water quality problems.

9. Petitioner claims not only that Cargill's operation would demean her water quality but also that its withdrawal will cause a draw down in the water level in her well. This second matter was tested by the District using the McDonald-Haurbaugh MODFLOW model which is well recognized and accepted within the groundwater community. The model was applied to the surficial, intermediate, and upper Floridan aquifers and indicated the draw down at the property boundary would be less than one foot in the surficial aquifer and less than four feet in the intermediate aquifer. The model also showed the draw down at the Petitioner's well would be less than three feet, which is well within the five foot criteria for issuance of a consumptive use permit under the appropriate District rules. This evidence was not contradicted by any evidence of record by Petitioner.

10. All indications are that the water use proposed is both reasonable and beneficial, is consistent with the public interest, and will not interfere with any existing legal use of water.

CONCLUSIONS OF LAW

11. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter in this case. Section 120.57(1), Florida Statutes.

12. In a permit application case such as here, the applicant has the burden to prove its entitlement to the permit. Once it has done so, the opponent may attempt to establish by competent, substantial and credible evidence that the applicant has failed to show its entitlement to the permit. Florida Department of Transportation vs. JWC Company, Inc., 396 So.2d 778. 788-789 (Fla. 1DCA 1981).

13. The authority to regulate water use permitting in the geographical area in issue here is delegated to the Southwest Florida Water Management District by Chapter 373, Florida Statutes, and is implemented in Chapter 40D, F.A.C..

14. Section 373.223(1), Florida Statutes, and Rule 40D-2.301(1), F.A.C. require the applicant to provide "reasonable assurances" that the granting of the permit is for a reasonable and beneficial use, is consistent with the public interest, and will not interfere with any existing legal use of water. These assurances need not be absolute guarantees nor must they eliminate all contrary

possibilities. Manasota 88, Inc. vs Agrico Chemical Co., et al., 12 FALR 1391, (February 19, 1990). See also Florida Keys Citizens Coalition vs. 1800 Atlantic Developers, et al., 8 FALR 5564 (October 17, 1986) and Cornwell vs Southwood Properties, Inc., 12 FALR 4973, (December 6, 1990).

15. The evidence of record as presented by the applicant, Cargill, and the District, goes well beyond meeting the statutory and rule criteria for granting the permit requested. The modeling demonstrates there would be no inappropriate draw down impact on the Petitioner's well and water usage, and the laboratory evidence of water content and quality equally establishes a lack of adverse impact on the potability, quality, and usability of the water therein. Further, the amounts requested are reasonable and the purpose of the operation would certainly appear to be in the public interest. What is also significant here in that the permit in issue at this hearing calls for no more water than is currently being lawfully drawn.

16. Petitioner, though given every reasonable opportunity to participate in the determination process failed to do so and presented no evidence to support her opposition to the granting of the permit. Consequently, the permit, as requested, should be granted.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is, therefore recommended that WUP Permit No. 202297.05 be renewed as modified to reflect approval of 15.3 MGD average daily withdrawal. Jurisdiction will remain with the Hearing Officer for the limited purpose of evaluating the propriety of an assessment of attorney's fees and costs against the Petitioner and the amount thereof.

RECOMMENDED this 29th day of April, 1993, in Tallahassee, Florida.

ARNOLD H. POLLOCK
Hearing Officer
Division of Administrative Hearings
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Filed with the Clerk of the
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this 29th day of April, 1993.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions to this Recommended Order. All agencies allow each party at least 10 days in which to submit written exceptions. Some agencies allow a larger period within which to submit written exceptions. You should consult with the agency which will issue the Final Order in this case concerning its rules on the deadline for filing exceptions to this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency which will issue the Final Order in this case.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

GLORIA S. ELDER, Petitioner, vs. CARGILL FERTILIZER, INC., FORT MEADE MINE, and SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT, Respondents,	)	CASE NO. 92-6215

FINAL ORDER

This matter came before the undersigned on Respondent, Cargill Fertilizes, Inc.'s Renewed Motion For Determination Of Improper Purposes And Award of Attorney's Fees And Costs, arising out of the entry of a Final Order by the Southwest Florida Water Management District granting Cargill's application for a consumptive use permit which had been opposed by Petitioner.

APPEARANCES

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For the Respondent: Rory C. Ryan, Esquire
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STATEMENT OF THE ISSUES

The issue for consideration in this matter is whether Respondent, Cargill Fertilizer, Inc., is entitled to reimbursement of attorney's fees and costs under Section 120.57(1)(b)(5), Florida Statutes, for its defense against a Petition it contends was filed by Petitioner for an improper purpose.

PRELIMINARY MATTERS

On July 31, 1992, Respondent, Southwest Florida Water Management District published a Notice of Intended Agency Action by which it signified its intention to issue a water use permit renewal to Respondent, Cargill Fertilizer, Inc., for its Fort Meade Mine. On August 17, 1992, Petitioner filed an action challenging the District's intended issuance, alleging that water quality deterioration and improper mining and reclamation practices were taking place and would be increased by issuance of the permit.

The matter was referred to the Division of Administrative Hearings for appointment of a Hearing Officer, and the matter was set for formal hearing. After at least one continuance at the request of Petitioner, to allow her counsel to recuperate from a health problem, the matter was rescheduled for hearing on March 16, 1993 at which time Petitioner appeared with counsel. At the hearing, Petitioner's counsel reiterated her previously filed request for further continuance, and when this request was denied, though she was afforded the opportunity to remain and participate, both Petitioner and her counsel departed the hearing room and took no part in the subsequent hearing at which both Cargill and the District presented witnesses and other evidence.

Petitioner submitted no evidence at hearing and failed to provide post-hearing submittal. Thereafter, on April 29, 1993, the Hearing Officer entered a Recommended Order recommending that the permit renewal be issued to Cargill and on May 25, 1993, the District entered its Final Order directing immediate issuance of Permit No. 202297.05 to Cargill. The District's Final Order further stipulated that jurisdiction would remain with the Hearing Officer for the

limited purpose of determining the propriety of an assessment of attorney's fees and costs against the Petitioner, and the amount thereof if appropriate.

No later than April 15, 1993, Cargill submitted its Renewed Motion for Attorney's Fees and Costs, its Supplement thereto, and Affidavits as to reasonableness of both attorney's fees and costs claimed by Cargill. Though the Renewed Motion, the Supplement, and one Affidavit was furnished to Petitioner, and the Supplement was also furnished to Petitioner's counsel, neither Petitioner nor counsel filed any pleading or made any other submittal in opposition to the Motion.

FINDINGS OF FACT

1. In December, 1990, Respondent, Cargill Fertilizer, Inc., applied to the Southwest Florida Water Management District for a water use permit renewal, No. 202297.05, for its Ft. Mead Mine. After evaluation, on July 31, 1992, the District published its Notice of Intended Agency Action by which it proposed to grant the application.

2. On August 17, 1992, Petitioner, Gloria S. Elder, through her attorney, filed a Petition signed by him challenging the District's intent to issue the permit alleging that water quality deterioration in her well, and improper mining and contributory reclamation practices were occurring at the mine site. This challenge was referred to the Division of Administrative Hearings for appointment of a Hearing Officer who set the matter for hearing in Bartow on February 24 - 26, 1993.

3. Immediately after the issuance of the Notice of Hearing, Petitioner, through her attorney, filed a Motion for Continuance on the basis that her counsel was to undergo surgery, and requesting a delay until after March 15, 1993. This motion was granted and the hearing rescheduled for March 16, 1993.

4. During the period after the granting of the continuance, the District and Cargill both attempted discovery in the case, much of which was responded to with less than full disclosure and some of which was not responded to at all. For example, the Petitioner's responses to the District's interrogatories were either answered as "Unknown at this time" or objected to as overly broad. The District's request for production of documents was not complied with. At no time did Petitioner seek a Protective Order.

5. In late February, 1993, Petitioner filed for an additional continuance which was subsequently denied. It was at this time that the Hearing Officer was first advised that at least a portion of the original continuance was as a result of the suspension from practice of Petitioner's counsel.

6. Subsequent to the filing of the additional continuance, but before the entry of the order of denial, Cargill sought, using both routine and extraordinary notification means, to depose the Petitioner and to run a test of her well. Petitioner both refused to allow entry onto her property for well testing, and refused to make herself unavailable for deposition.

7. On March 16, 1993, at the hearing, both Petitioner and her counsel, who had been reinstated the prior day, were present at the hearing room where counsel again sought a continuance on the basis that Petitioner had not been afforded the opportunity to consult with counsel and the conduct of the hearing would deprive her of due process of law. When, upon questioning by the Hearing Officer, it was determined that other qualified counsel were in practice in the

general vicinity of Petitioner's residence, the continuance was denied. At that, both Petitioner and her counsel withdrew from the hearing room and declined to participate in the hearing which took place in their absence. At the hearing, both Cargill and the District presented evidence on the appropriateness of the permit application.

8. On April 1, 1993, Petitioner filed a petition for review of the Hearing Officer's refusal to grant her motion for further continuance with the Second District Court of Appeal. The Court denied that petition on April 15, 1993.

9. At no time has Petitioner presented any evidence, either by testimony or by document, to support her challenge to the District's proposed granting of Cargill's permit renewal. It is, therefore, found her challenge was filed merely to harass Cargill, to cause unnecessary delay in its operations, or for some other frivolous purpose.

10. Cargill has presented evidence in the form of affidavits to support reasonable attorney's fees and costs for the services rendered in this matter by its counsel. These affidavits, though furnished to Petitioner on April 14, 1993, have not been challenged. It is found, therefore, that a reasonable fee for services rendered Cargill herein by its counsel is $10,637.50 for 92.5 hours of work at $115.00 per hour. Reasonable costs, based on documented evidence of work done and sums expended, are found to be $1,370.03.

CONCLUSIONS OF LAW

11. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter in this case. Section 120.57(1), Florida Statutes.

12. Section 120.57(1)(b)(5), Florida Statutes, provides in part:

> ... The signature of a party, a party's attorney, ..., constitutes a certificate that he has read the pleading, motion, or other paper and that to the best of his knowledge, information or belief formed after reasonable inquiry, it is not interposed for any improper purposes such as to harass or cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. If a pleading or motion is signed in violation of these requirements, the hearing officer, upon motion or his own initiative, shall impose upon the person who signed it, a representative party or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

13. Cargill seeks an award of attorney's fees and costs relative to its successful defense against the Petitioner's challenge to the District's intended award of a water consumptive use permit renewal to it. Specifically, it alleges that Petitioner's challenge was filed for an improper purpose.

14. Improper purpose has been defined by the statute cited above, and at Section 120.59(6)(e)1, Florida Statutes, and that definition has been followed by the First District Court of Appeal in Burke v. Harbor Estates Associates, Inc., 17 FLW D101, D102 (Fla. 1DCA 1991). The determination of whether a party participated in a proceeding for an improper purpose is an issue of fact to be resolved by the trier of fact from the facts and circumstances of the case and the permissible inferences to be drawn therefrom. See Burke, 17FLW at D103.

15. Here, the evidence shows that Petitioner has complained about Cargill's activities in the past and Cargill has repeatedly attempted to satisfy her in the interest of good community relations, apparently going beyond its reasonable requirements to do so. In the instant situation, Petitioner, through her attorney, filed a Petition in opposition to the District's intended action which had the effect of forestalling, at least temporarily, Cargill's ability to get all the water it needs for its operation. Even when the action was filed, Petitioner sought a continuance for the asserted reason that her counsel was medically disqualified. Though, if fact, this was an accurate statement, it was not the whole reason for the delay and subsequent information reveals that counsel was unavailable because he had been disciplined by the Bar and suspended from practice for a period. This information was not, however, made known to the Hearing Officer at the time of the first request for continuance. Only when Cargill's discovery requests were filed and the first continuance was running out, did Petitioner first advise the Hearing Officer of her counsel's disqualification.

16. Petitioner seeks to rely on the unavailability of her counsel as a basis for failing to comply with the discovery requests of Cargill and the District. She relies upon this fact even to justify her failure to participate in any hearings on discovery set up with the Hearing Officer. This reliance is not well placed. What appears is a blatant refusal to in any way cooperate with the hearing process which she initiated and a clear attempt to prevent any resolution of the issues she raised by her filing of the petition herein. Her justification is that her counsel was not available, but other qualified counsel was available, and aside from her written request for additional continuance, which was denied, at no time did she ever attempt to cooperate with the opposing parties or the Hearing Officer to attempt to resolve her concerns.

17. Finally, when the hearing was convened, and Petitioner's request for additional continuance was again denied, Petitioner and her counsel, who had been reinstated and was present at the hearing room with her, claimed that because the Hearing Officer had imposed discovery sanctions after her refusal to participate in discovery and comply with discovery orders of the Hearing Officer, she was being denied her due process rights, refused to participate further in the hearing process, and departed the hearing room. In his ruling, the Hearing Officer made it clear that Petitioner and her counsel would be permitted to participate in the hearing process to the extent not precluded by the sanctions order previously entered. This would have permitted her cross examination of all witnesses for Cargill and the District, the presentation of evidence in her behalf that was not the subject of prior discovery requests, and argument on the merits. She chose not to do so and upon completion of the hearing, a Recommended Order was entered recommending approval of the issuance of the subject permit renewal. A final Order was subsequently entered doing just that. Under these circumstances, Petitioner was clearly the non-prevailing party as defined in Section 120.59(6)(e)3, Florida Statutes.

18. It has been found that the attorney's fees and costs sought by the movant herein, Cargill, are reasonable, and it appearing that Petitioner's action was here filed for an improper purpose, they should be awarded.

19. It should be noted that neither Cargill nor the District sought the award of fees or costs from Petitioner's counsel. Section 120.57(1)(b)(5), Florida Statutes, authorizes the Hearing Officer to, on his own initiative, impose on either or both the representative party and the person who signed the pleading, an appropriate sanction. Here, as was noted, the initial pleading was signed by Petitioner's counsel, and with the subsequent determination being made that the challenge was filed for an improper purpose, the sanction is here imposed on the representative party because of the clear showing, from her subsequent actions and from the history of her prior relationship with Cargill, that her initiation of this action was motivated by an improper purpose.

20. There is no evidence at all, however, save counsel's signature on the initial pleading and his brief appearance at the final hearing, of the extent or nature of his participation in this matter. Absent a clear showing of his participation in and either encouragement of or acquiescence in the continuation of this action, with knowledge of its purpose and character, imposition of sanctions against him would be improper. See Golden Eagle Distributing Corp. v. Burrous et al, 801 F.2d 1531, 1540-41 ((th Cir. 1986); Cubic Western Data v. Department of Transportation and Planning Research Corp., DOAH Final Order in Case No. 89-6926 BID, H.O. K.N. Ayers, entered January 25, 1990.

It is, therefore:

ORDERED THAT

Petitioner, Gloria S. Elder, pay to the Respondent, Cargill Fertilizer Inc., Ft. Meade Mine, the sum of Ten Thousand Six Hundred Thirty-seven Dollars and Fifty Cents, ($10,637.50) as reasonable attorney's fees, and the additional sum of One Thousand Three Hundred Seventy Dollars and Three Cents, ($1,370.03) in costs.

DONE and ORDERED in Tallahassee, Florida this 18th day of June, 1993.

_____

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DIVISION OF ADMINISTRATIVE HEARINGS AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.