

6-1-79

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

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APPROPRIATE  
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

EDNA C. WIELER,  
Petitioner,

DOAH Case No. 99-1179  
SJRWMD FOR NO. 99-1904

vs.

HORSE'S HEAD, LTD., as permit  
Applicant, and ST. JOHNS WATER  
MANAGEMENT DISTRICT, as permit  
Authority,

JDP-CWS

Respondents.

TOWN OF INDIAN RIVER SHORES,  
Petitioner,

DOAH Case No. 99-1180  
SJRWMD FOR NO. 99-1903

vs.

HORSE'S HEAD, LTD., as permit  
Applicant, and ST. JOHN'S WATER  
MANAGEMENT DISTRICT, as permit  
Authority,

Respondents.

FINAL ORDER

Pursuant to notice, the Division of Administrative Hearings ("DOAH"), by its duly designated Administrative Law Judge, the Honorable J.D. Parrish, held an evidentiary hearing on Respondents' Motions to Dismiss in the above-styled cause on May 14, 1999, in Tallahassee, Florida.

APPEARANCES

For Petitioners, Edna C. Weiler  
and Town of Indian River Shores:

Kenneth G. Oertel, Esq.  
Oertel, Hoffman, Fernandez & Cole, P.A.  
P.O. Box 1110  
Tallahassee, FL 32302-1110

For Respondent, Horse's Head, Ltd.: William L. Hyde, Esq.  
215 South Monroe Street  
Suite 830  
Tallahassee, FL 32301

For Respondent, St. Johns River  
Water Management District: Mary Jane Angelo, Esq.  
Charles Lobdell, Esq.  
St. Johns River  
Water Management District  
Post Office Box 1429  
Palatka, FL 32178-1429

On June 7, 1999, Administrative Law Judge Parrish submitted to the District a Recommended Order of Dismissal, a copy of which is attached hereto as Exhibit "A." This matter then came before the Governing Board of the St. Johns River Water Management District on July 13, 1999, for final agency action.

**STATEMENT OF THE ISSUE**

Whether the Petitions for Formal Administrative Proceeding should be dismissed.

**ACCORDINGLY, IT IS HEREBY ORDERED:**

The Administrative Law Judge's recommended findings of fact and conclusions of law contained in the Recommended Order of Dismissal entered on June 7, 1999, attached hereto as Exhibit "A," are adopted in their entirety and incorporated herein as the final order of the St. Johns River Water Management District in this matter.

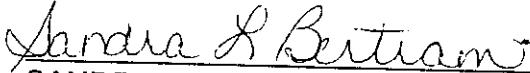
WHEREFORE the Petitions for Formal Administrative Proceedings are dismissed.

DONE AND ORDERED this 14<sup>th</sup> day of July 1999 in  
Palatka, Florida.

ST. JOHNS RIVER WATER  
MANAGEMENT DISTRICT

  
\_\_\_\_\_  
J. DANIEL ROACH, CHAIR  
GOVERNING BOARD

RENDERED this 15<sup>th</sup> day of July 1999 in Palatka, Florida.

  
\_\_\_\_\_  
SANDRA L. BERTRAM  
DISTRICT CLERK

Copies furnished to:

Kenneth G. Oertel  
William L. Hyde  
Mary Jane Angelo  
Charles Lobdell

NOTICE OF RIGHTS

1. Any substantially affected person who claims that final action of the District constitutes an unconstitutional taking of property without just compensation may seek review of the action in circuit court pursuant to Section 373.617, Florida Statutes, and the Florida Rules of Civil Procedures, by filing an action within 90 days of rendering of the final District action.

2. Pursuant to Section 120.68, Florida Statutes, a party who is adversely affected by final District action may seek review of the action in the district court of appeal by filing a notice of appeal pursuant to Fla.R.App. 9.110 within 30 days of the rendering of the final District action.

3. A party to the proceeding who claims that a District order is inconsistent with the provisions and purposes of Chapter 373, Florida Statutes, may seek review of the order pursuant to Section 373.114, Florida Statutes, by the Land and Water Adjudicatory Commission (Commission) by filing a request for review with the Commission and serving a copy on the Department of Environmental Protection and any person named in the order within 20 days of adoption of a rule or the rendering of the District order.

4. A District action or order is considered "rendered" after it is signed by the Chairman of the Governing Board on behalf of the District and is filed by the District Clerk.

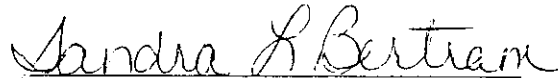
5. Failure to observe the relevant time frames for filing a petition for judicial review as described in paragraphs #1 or #2 or for Commission review as described in paragraph #3 will result in waiver of that right to review.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing NOTICE OF RIGHTS has been furnished by United States Mail to:

Kenneth G. Oertel, Esquire  
Oertel, Hoffman, Fernandez & Cole, P.A.  
P.O. Box 1110  
Tallahassee, FL 32302-1110

At 4:00 P.M. this 15TH day of JULY, 1999.



SANDRA L. BERTRAM  
DISTRICT CLERK  
St. Johns River Water  
Management District  
Post Office Box 1429  
Palatka, Florida 32178-1429

CERTIFIED MAIL # Z 229 564 564

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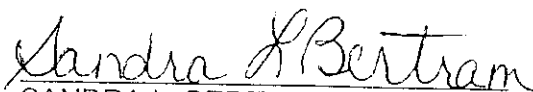
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William L. Hyde, Esquire  
215 South Monroe Street  
Suite 830  
Tallahassee, FL 32301

At 4:00 P.M. this 15TH day of July 14, 1999.



SANDRA L. BERTRAM  
DISTRICT CLERK  
St. Johns River Water  
Management District  
Post Office Box 1429  
Palatka, Florida 32178-1429

CERTIFIED MAIL # Z 337 543 240