

7-29-02

BEFORE THE GOVERNING BOARD OF THE
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

FILED
SEP-3 PM 4:10
DIVISION OF
ADMINISTRATIVE
SERVICES

ALAN BEHRENS and DeSOTO
CITIZENS AGAINST POLLUTION,
INC.,

Petitioners,

vs.

DOAH CASE NO. 02-0282
WUP NO. 20009478.005

JLJ-CWS

MICHAEL J. BORAN and
SOUTHWEST FLORIDA WATER
MANAGEMENT DISTRICT,

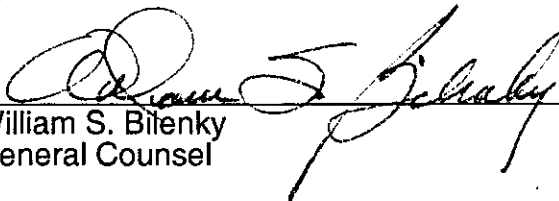
Respondents.

NOTICE OF ENTRY OF FINAL ORDER

Notice is hereby given that the attached Final Order (No. SWF-02-052) in the above-styled proceeding was entered by the Governing Board of the Southwest Florida Water Management District (the District) on August 27 2002, and was filed with the Agency Clerk and therefore rendered on August 28, 2002. This Notice is given and a copy of the attached Final Order mailed to the attorney or representative of record for each party in the proceeding as required by Section 120.569(1), Florida Statutes (F.S.).

In accordance with Section 120.569(1), F.S., each party is hereby informed that the following judicial review may be available: A party who is adversely affected by final agency action may seek review of the action in the appropriate District Court of Appeal pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, within thirty (30) days after the rendering of the final action by the District.

PLEASE BE GOVERNED ACCORDINGLY.



William S. Bilenky
General Counsel

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Entry of Final Order and attached Final Order have been sent by United States mail or hand-delivered to the following this 29th day of August 2002.

Mark F. Lapp
Deputy General Counsel
Mary Beth McNeil
Assistant General Counsel
Southwest Florida Water Management District
2379 Broad Street
Brooksville, Florida 34604-6899
Attorney for Respondent

Alan Behrens
4070 Southwest Armadillo Trail
Arcadia, Florida 34266

Douglas Manson, Esquire
David M. Pearce, Esquire
Carey, O'Malley, Whitaker & Manson, P.A.
712 South Oregon Avenue
Tampa, Florida 33606
Attorney for Michael J. Boran

J. Lawrence Johnston, Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060



William S. Bilenky

7-29-02

BEFORE THE GOVERNING BOARD OF THE
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

Division of Administrative Hearings FILED Date <u>9-3-02</u>

ORDER NO. SWF 02 - 052

ALAN BEHRENS and DeSOTO CITIZENS
AGAINST POLLUTION, INC.,

AT

Petitioners,

DOAH CASE No. 02-0282

vs.

WUP No. 20009478.005

MICHAEL J. BORAN and SOUTHWEST
FLORIDA WATER MANAGEMENT DISTRICT,

Respondents.

FINAL ORDER

THIS CAUSE was heard by the Governing Board of the Southwest Florida Water Management District (the District) pursuant to Sections 120.569 and 120.57(1), Florida Statutes (F.S.), for the purpose of issuing a final order in the above-styled proceeding, including consideration of the Administrative Law Judge's (ALJ's) Recommended Order and the exception filed by the District.

1. On July 29, 2002, the ALJ issued his Recommended Order, a copy of which is attached hereto and incorporated herein by reference as Exhibit "A."
2. On August 13, 2002, the District filed an Exception to Recommended Order.
3. The Governing Board has reviewed the Recommended Order and the Exception filed by the District.

4. The Governing Board accepts the Exception filed by the District for the reasons expressed in the Ruling on Exception to Recommended Order, which is attached hereto and incorporated herein by reference as Exhibit

"B".

5. The Governing Board adopts the Recommended Order in its entirety except for that portion of paragraph 44 which states: "In reality, the heterogeneity or discontinuity of confining units cuts down on drawdown effects." The basis for rejecting this sentence is described in the Ruling on Exception to Recommended Order.
6. The Recommended Order recommended that the District enter a final order granting Boran's Water Use Permit (WUP) application No. 20009478.005; and denying the motions for attorney's fees and costs under Section 120.595(1), F.S. The Governing Board accepts the recommendation.

STATEMENT OF ORDER

WHEREFORE, the Governing Board hereby issues WUP No. 20009478.005 attached hereto as Exhibit "C", and denies the motions for attorney's fees and costs under Section 120.595(1), F.S.

DONE AND ORDERED by the Governing Board of the Southwest Florida Water Management District this 29th day of August 2002, in Brooksville, Hernando County, Florida.

SOUTHWEST FLORIDA WATER
MANAGEMENT DISTRICT

By: _____

Ronnie E. Duncan, Chair

Attest: _____

Heidi B. McCree, Secretary

Approved as to Legal Form and
Content _____

Filed this 28th day of August 2002.

Heidi B. McCree
Deputy Agency Clerk

Copies furnished to:

Mary Beth McNeil
Assistant General Counsel
Southwest Florida Water Management District
2379 Broad Street
Brooksville, Florida 34604-6899

Alan Behrens
4070 Southwest Armadillo Trail
Arcadia, Florida 34266

Douglas Manson, Esquire
Carey, O'Malley, Whitaker & Manson, P.A.
712 South Oregon Avenue
Tampa, Florida 33606
Attorney for Michael J. Boran