

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

IN RE:

WEST ORANGE COUNTY CLUB
CUP Application No. 2-095-3386-3

F.O.R. No. 2006-04

FINAL ORDER DENYING PERMIT APPLICATION

This matter came before the Governing Board on October 10, 2006, upon the District's Notice of Intent to Recommend Denial of Consumptive Use Permit (CUP) application number 2-095-3386-3. West Orange Country Club did not attend or present any testimony at the October 10, 2006 Governing Board meeting.

FINDINGS OF FACT

1. On January 10, 2006, West Orange Country Club (the "Applicant") submitted CUP application requesting a change in the source of water for golf course and landscape irrigation from reclaimed water to groundwater from the Floridan aquifer.
2. This permit was originally issued in January 1982, and was renewed in October 1998.
3. The existing permit authorizes an allocation of 48.68 mgd of reclaimed water from Conserv II for golf course and landscape irrigation, and a backup allocation of 9.74 mgd of surface water from an onsite canal and a backup allocation of 5.56 mgd of ground water from the Floridan aquifer. According to EN-50 forms submitted by the Applicant, reclaimed water use at this golf course has been in compliance with the existing permit.
4. The Applicant is currently receiving reclaimed water for golf course irrigation from Conserv II. The Applicant had received this reclaimed water free of charge since

approximately 1999. However, Conserv II is now charging the Applicant \$0.42 per 1000 gallons of reclaimed water.

5. The Applicant claims that it is economically infeasible for it to pay that cost for the reclaimed water due to its limited assets and small club membership, and therefore sought a modification of its existing permit to obtain one hundred percent of its irrigation needs from ground water from the Floridan aquifer.

6. In an effort to substantiate its claims, the Applicant submitted to the District a June 30, 2005, financial report, and a February 28, 2006, cash flow statement.

7. The District conducted an economic analysis that included reviewing the Applicant's documentation, greens fees and membership fees of golf courses in the area and planned new residential developments in the area. Based on an economic analysis of relevant factors, the continued use of reclaimed water at \$0.42 per 1000 gallons is not economically infeasible for the Applicant based on, among other factors: (1) the cost of reclaimed water is only a minor component of the Applicant's monthly expenses; (2) the Applicant could easily recover the costs of reclaimed water from its members and guests; (3) the small increase in fees to recover this cost will still result in the Applicant remaining competitive in the golf course market in the area; and (4) there are new planned developments in the vicinity of this country club that are expected to bring in additional members in the future (to further reduce the additional cost per member), especially as the Applicant is currently planning a major upgrade of its tees and greens.

8. The Applicant failed to demonstrate that the use of reclaimed water would be economically infeasible.

9. On September 25, 2006, District staff advised the Applicant via certified mail that District staff was recommending a substantive denial of the application at the October 10, 2006, Governing Board Meeting. The letter included a Notice of Rights.

10. Notice of the District's intent to substantively deny the permit was also published in the Orlando Sentinel on May 20, 2006.

11. The Applicant did not appear before the District's Governing Board meeting on October 10, 2006 and not did provide any testimony or other information at that meeting to dispute any of the findings or analysis contained in the staff's recommendation to the Governing Board.

12. On October 10, 2006, the Governing Board voted to substantively deny CUP application number 2-095-3386-3.

13. The Applicant did not timely request an administrative hearing or other relief.

CONCLUSIONS OF LAW

14. The District has jurisdiction over this matter. Subsection 373.069(2)(c), Florida Statutes (F.S.), and Chapter 40C-2, Florida Administrative Code (F.A.C.).

15. The Applicant has waived its right to a Chapter 120, F.S., administrative hearing by failure to timely file a petition pursuant to the Notice of Rights.

16. Section 373.223(1), F.S., and District rule 40C-2.301(2), F.A.C., requires an applicant to establish that its proposed use of water:

- (a) Is a reasonable-beneficial use;
- (b) Will not interfere with any presently existing legal use of water; and
- (c) Is consistent with the public interest.

District rule 40C-2.301(4), F.A.C. requires that an applicant meet each of 12 criteria in order for a use to be considered reasonable-beneficial. The sixth reasonable-beneficial use criterion in rule 40C-2.301(4)(f) states:

When reclaimed water is readily available it must be used in place of higher quality water sources unless the applicant demonstrates that its use is either not economically, environmentally or technologically feasible.

17. Reclaimed water from Conserv II is available to the Applicant, and the Applicant has failed to demonstrate that its use of this reclaimed water is not economically feasible. Consequently, the Applicant has failed to establish that its proposed use of groundwater as the primary source for golf course irrigation as requested in CUP application #2-095-3386-3 is reasonable-beneficial and the application must be denied.

WHEREFORE, upon consideration, it is ORDERED that permit application number 2-095-3386-3 is DENIED.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT



David G. Graham
Chairman

RENDERED this 28th day of November 2006.



ROBERT F. NAWROCKI
District Clerk