

7-2-1990

# State of Florida Division of Administrative Hearings: Respondent University of North Florida's First Request for Admissions to Petitioner Michael W. Woodward July 2, 1990 and Amended Petition for Administrative Hearing August 31, 1990

Marcia P. Parker

T R. Hainline Jr

Timothy Keyser



STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TERESA BURKITT,

Petitioner,

v. DOAH CASE NO. 90-003232

UNIVERSITY OF NORTH FLORIDA and ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, SJRWMD FILE OF RECORD No. 90-916A

Respondents.

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CATHLENE DENNY,

Petitioner,

v. DOAH CASE NO. 90-003233

UNIVERSITY OF NORTH FLORIDA and ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, SJRWMD FILE OF RECORD No. 90-916B

Respondents.

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MICHAEL W. WOODWARD,

Petitioner,

v. DOAH CASE NO. 90-003234

UNIVERSITY OF NORTH FLORIDA and ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, SJRWMD FILE OF RECORD No. 90-916C

Respondents.

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**RESPONDENT UNIVERSITY OF NORTH FLORIDA'S FIRST REQUEST FOR ADMISSIONS TO PETITIONER MICHAEL W. WOODWARD**

Respondent, University of North Florida, pursuant to Rule 1.370, Florida Rules of Civil Procedure, requests that Petitioner Michael W. Woodward admit the following matters **within thirty (30) days of service**.

## GENERAL INSTRUCTIONS

As described in the Amended Petition file by Petitioner in this case, the proposed permitting decision at issue involves proposed activities and facilities in connection with the proposed road widening project (the "project"). The applications and related documents filed by Respondent University of North Florida with the St. Johns River Water Management District ("District") therefore contain plans and descriptions of proposed construction and surface water management facilities to be undertaken in connection with the project. A number of the requests set forth below are stated in the future tense. For example, "the project will not... ." These requests are based upon the plans and descriptions of the proposed facilities including operation plans as are contained in the permit applications and related documents filed with the District.

As used in these requests, the term "project" means the construction and operation of the proposed road widening project and appurtenant water treatment and conveyance facilities described in the application for management and storage of surface water ("MSSW") permit filed by Respondent University of North Florida, Permit No. 4-301-03596.

## REQUESTS

1. The District issued the Management and Storage of Surface Waters Permit No. 4-031-0359AG on April 10, 1990.

2. The proposed project is for the widening of the existing

UNF Drive, including appurtenant treatment and conveyance facilities.

3. The project lies entirely within Duval County.

4. Approximately 1.9 miles of UNF Drive will be widened to three lanes.

5. Approximately 0.6 miles of UNF Drive will be widened to four lanes.

6. UNF Drive is separated into six drainage basins.

7. The surface water management system for drainage basin 1 will consist of curb and gutter storm sewers with sand filter structures for storm water treatment.

8. The surface water management system for drainage basin 2 will consist of curb and gutter storm sewers with sand filter structures for storm water treatment.

9. The surface water management system for drainage basin 3 will be served by either curb and gutter conveyance or swale conveyance to wet detention ponds.

10. The surface water management system for drainage basin 4 will be served by either curb and gutter conveyance or swale conveyance to wet detention ponds.

11. The surface water management system for drainage basin 5 will be served by either curb and gutter conveyance or swale conveyance to wet detention ponds.

12. The surface water management system for drainage basin 6 will be served by either curb and gutter conveyance or swale conveyance to wet detention ponds.

13. The proposed project will be constructed within the existing upland boundaries of UNF Drive.

14. UNF Drive crosses Sawmill Slough and Buckhead Branch as it extends eastward from St. Johns Bluff Road to the University.

15. No alterations to the existing culvert crossings across Sawmill Slough and Buckhead Branch are proposed.

16. Prior to construction of the project, all stormwater runoff from the existing UNF Drive discharges directly into waters of the state without prior treatment.

17. The project is not adjacent to any navigable rivers or harbors.

18. The project does not involve dredging of rivers or harbors.

19. The project does not include filling any rivers or harbors.

20. The project will not adversely affect navigability of rivers and harbors.

21. The project does not include construction on any recreational development.

22. The only public lands affected are those included in the right-of-way for UNF Drive.

23. Operation of the project will not adversely affect recreational development.

24. Operation of the project will not adversely affect public lands.

25. The project does not include any activities defined as

"maintenance" as defined in Section 373.403(8), Florida Statutes.

26. The permit includes permission to construct the project, as construction is defined in Section 40C-4.021(3), Florida Administrative Code.

27. The permit includes permission to operate the project, as operation is defined in Section 2.0(p), Applicant's Handbook, Management and Storage of Surface Waters.

28. Operation of the project will not endanger life.

29. Operation of the project will not endanger health.

30. Operation of the project will not endanger property.

31. Operation of the project will not adversely affect the availability of water for reasonable beneficial purposes.

32. The project is capable of being effectively operated.

33. The district governing board has not established any minimum flows and levels pursuant to Section 373.042, Florida Statutes.

34. The District has not adopted a Work of the District in Duval County.

35. Operation of the project will not adversely affect existing agricultural development.

36. Operation of the project will not adversely affect existing commercial development.

37. Operation of the project will not adversely affect existing industrial development.

38. Operation of the project will not adversely affect existing residential development.

39. Operation of the project will not adversely impact quality of receiving waters.

40. Operation of the project will not adversely affect natural resources.

41. Operation of the project will not adversely affect fish.

42. Operation of the project will not adversely affect wildlife.

43. Operation of the project will not induce salt water intrusion.

44. Operation of the project will not induce pollution intrusion.

45. The project does not include development of flood plains.

46. The project does not include flood plain encroachment.

47. The project does not include flood plain alteration.

48. The project does not include retardance of surface water.

49. The project does not include acceleration of surface water.

50. The project does not include displacement of surface water.

51. The project does not include diversion of surface water.

52. The project does not reduce natural water storage areas.

53. Operation of the project will not increase the potential for damages to offsite property caused by flood plain development.

54. Operation of the project will not increase the potential for damages to offsite property caused by encroachment.

55. Operation of the project will not increase the potential

for damages to offsite property caused by alteration of the flood plain.

56. Operation of the project will not increase the potential for damages to offsite property caused by retardance of surface water.

57. Operation of the project will not increase the potential for damages to offsite property caused by acceleration of surface water.

58. Operation of the project will not increase the potential for damages to offsite property caused by displacement of surface water.

59. Operation of the project will not increase the potential for damages to offsite property caused by diversion of surface water.

60. Operation of the project will not increase the potential for damages to offsite property caused by reduction of natural water storage areas.

61. Operation of the project will not increase the potential for damages to offsite property caused by facility failure.

62. Operation of the project will not increase the potential for damages to the public caused by flood plain development.

63. Operation of the project will not increase the potential for damages to the public caused by encroachment in the flood plain.

64. Operation of the project will not increase the potential for damages to the public caused by alteration of the flood plain.

65. Operation of the project will not increase the potential for damages to the public caused by retardance of surface water.

66. Operation of the project will not increase the potential for damages to the public caused by displacement of surface water.

67. Operation of the project will not increase the potential for damages to the public caused by diversion of surface water.

68. Operation of the project will not increase the potential for damages to the public caused by reduction of natural water storage areas.

69. Operation of the project will not increase the potential for damages to the public caused by facility failure.

70. Operation of the project will not increase the potential for flood damages to residences.

71. Operation of the project will not increase the potential for flood damages to public buildings.

72. Operation of the project will not increase the potential for flood damages to proposed streets and roadways.

73. Operation for the project will not increase the potential for flood damages to existing streets and roadways.

74. Operation of the project will not be inconsistent with the overall objectives of the district.

75. Construction of the project will not cause adverse water quantity impacts to receiving waters.

76. Construction of the project will not cause adverse water quantity impacts to adjacent lands.

77. Operation of the project will not cause adverse water

quantity impacts to receiving waters.

78. Operation of the project will not cause adverse water quantity impacts to adjacent lands.

79. Construction of the project will not cause adverse effects to surface water levels.

80. Operation of the project will not cause adverse effects to surface water levels.

81. Construction of the project will not cause adverse effects to groundwater levels.

82. Operation of the project will not cause adverse effects to groundwater levels.

83. Construction of the project will not cause adverse effects to surface water flows.

84. Operation of the project will not cause adverse effects to surface water flows.

85. Construction of the project will not adversely affect existing surface water storage capabilities.

86. Operation of the project will not adversely affect existing surface water storage capabilities.

87. Construction of the project will not adversely affect existing surface water conveyance capabilities.

88. Operation of the project will not adversely affect existing surface water conveyance capabilities.

89. The system is capable of being effectively operated.

90. Construction of the project will not result in adverse impacts to the operation of Works of the District established

pursuant to Section 373.086, Florida Statutes.

91. Operation of the project will not result in adverse impacts to the operation of Works of the District established pursuant to Section 373.086, Florida Statutes.

92. Construction of the project will not adversely affect hydrologically related environmental functions.

93. Operation of the project will not adversely affect hydrologically related environmental functions.

94. Construction of the project is not harmful to the water resources of the district.

95. Operation of the project is not harmful to the water resources of the district.

96. The post-development peak rate of discharge will not exceed the pre-development peak rate of discharge for a 24-hour duration storm with a 25 year return frequency. The project does not discharge to a land-locked lake adjacent to properties of more than one ownership.

97. The project is not located in the Upper St. Johns River Hydrologic Basin, as adopted in Chapter 40C-41, Florida Administrative Code.

98. The project is not located in the Oklawaha River Hydrologic Basin, as adopted in Chapter 40C-41, Florida Administrative Code.

99. The project is not located in the Wekiva River Hydrologic Basin, as adopted in Chapter 40C-41, Florida Administrative Code.

100. The project will not cause a net reduction in flood

storage within a ten-year flood plain.

101. The project is a traversing work as defined in Section 40C-4.021(10), Florida Administrative Code.

102. The project shall not cause more than a one foot increase in the 100-year flood elevation immediately upstream of the project.

103. The project will not cause more than one-tenth of a foot increase in the 100-year flood elevation 500 feet upstream.

104. The project will not cause a reduction in the flood conveyance capabilities provided by a floodway.

105. The project will not result in flows of adjacent streams being decreased so as to cause adverse impacts.

106. The project will not result in flows of adjacent impoundments being decreased so as to cause adverse impacts.

107. The project will not result in flows of other water courses being decreased so as to cause adverse impacts.

108. Construction of the project will not cause adverse offsite changes in the habitat of an aquatic species.

109. The operation of the project will not cause adverse offsite changes in the habitat of a wetland dependent species.

110. The operation of the project will not cause adverse offsite changes in the habitat of an aquatic species.

111. The construction of the project will not cause adverse offsite changes in a wetland dependent species.

112. The construction of the project will not cause adverse offsite changes in the abundance of aquatic species.

113. The operation of the project will not cause adverse offsite changes in the abundance of aquatic species.

114. The construction of the project will not cause adverse offsite changes in the diversity of aquatic species.

115. The operation of the project will not cause adverse offsite changes in the diversity of aquatic species.

116. The construction of the project will not cause adverse offsite changes in the abundance of wetland dependent species.

117. The operation of the project will not cause adverse offsite changes in the abundance of wetland dependent species.

118. The construction of the project will not cause adverse offsite changes in the diversity of wetland dependent species.

119. The operation of the project will not cause adverse offsite changes in the diversity of wetland dependent species.

120. The construction of the project will not cause adverse offsite changes in the food sources in the aquatic species.

121. The operation of the project will not cause adverse offsite changes in the food sources of aquatic species.

122. The construction of the project will not cause adverse offsite changes in the food sources of wetland dependent species.

123. The operation of the project will not cause adverse offsite changes in the food sources of wetland dependent species.

124. The construction of the project will not cause adverse changes in the habitat of threatened species.

125. The operation of the project will not cause adverse changes in the habitat of threatened species.

126. The construction of the project will not cause adverse changes in the habitat of endangered species.

127. The operation of the project will not cause adverse changes in the habitat of endangered species.

128. The construction of the project will not cause adverse changes in the abundance of threatened species.

129. The operation of the project will not cause adverse changes in the abundance of threatened species.

130. The construction of the project will not cause adverse changes in the diversity of threatened species.

131. The operation of the project will not cause adverse changes in the diversity of threatened species.

132. The construction of the project will not cause adverse changes in the abundance of endangered species.

133. The operation of the project will not cause adverse changes in the abundance of endangered species.

134. The construction of the project will not cause adverse changes in the diversity of endangered species.

135. The operation of the project will not cause adverse changes in the diversity of endangered species.

136. The construction of the project will not cause adverse changes in the food sources of threatened species.

137. The operation of the project will not cause adverse changes in the food sources of threatened species.

138. The construction of the project will not cause adverse changes in the food sources of endangered species.

139. The operation of the project will not cause adverse changes in the food sources of endangered species.

140. Detention basins will provide the capacity for the specified treatment volume of stormwater within 72 hours following a storm event.

141. Filtration systems have pour spaces large enough to provide sufficient flow capacity so that the permeability of the filter is equal to or greater than the surrounding soil.

142. The filtration design ensures that the particles within the filter do not move.

143. The filtration system is designed so that when sand or other fine texture aggregate other than natural soil are used for filtration, the filter material shall be of a quality sufficient to satisfy the requirements of Section 40C-42.025(2), Florida Administrative Code.

144. Filtration systems are designed with a safety factor of at least two.

145. Permanently wet detention basins have side slopes that are no steeper than 4:1 (horizonal:vertical) out to a depth two feet below the control elevation.

146. Permanently wet detention basins have side slopes that are mulched and seeded and sodded.

147. Detention basins are designed to accommodate maintenance equipment access.

148. Detention basins are designed to facilitate regular maintenance, mowing and vegetation control.

149. Erosion and sediment control best management practices are required as a condition of the permit.

150. Stormwater discharge facilities include a baffle, skimmer, grease trap or other mechanism suitable for preventing oil and grease from leaving the stormwater discharge facility in concentrations that would cause or contribute to violations of applicable water quality standards in the receiving waters.

151. The project does not discharge directly to Class I waters.

152. The project does not discharge directly into Class II waters.

153. The project does not discharge directly to Outstanding Florida Waters.

154. The project is not designed to accept stormwater from multiple parcels within the drainage area served by the facility.

ROGERS, TOWERS, BAILEY, JONES & GAY

By: 

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Timothy Keyser, attorney for Petitioners, P.O. Box 92, Interlachen, FL 32148, Clare E. Gray, attorney for St. Johns River Water Management District, P.O. Box 1429, Palatka, FL 32178-1429, by mail, this 2 day of July, 1990.

Attorney

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TERESA BURKITT,

Petitioner,

v. DOAH CASE NO. 90-003232

UNIVERSITY OF NORTH FLORIDA and ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, SJRWMD FILE OF RECORD NO. 90-916A

Respondents.

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CATHLENE DENNY,

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MICHAEL W. WOODWARD,

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UNIVERSITY OF NORTH FLORIDA and ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, SJRWMD FILE OF RECORD NO. 90-916C

Respondents.

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SECOND AMENDED PETITION FOR ADMINISTRATIVE HEARING
VERIFIED IN ACCORD WITH SECTION 403.412 (5)
OF THE FLORIDA STATUTES

Petitioner, MICHAEL W. WOODWARD, petitions for an

administrative hearing pursuant to Section 403.412(5) of the Florida Statutes and Rule 40C-1.521(2) of the Florida Administrative Code and alleges:

1. The name and address the agency (District) is given below in the Certificate of Service. Its file numbers are given in the caption.

2. The name and address of the petitioner is:

MICHAEL W. WOODWARD
[redacted]

3. Substantial interests of petitioner will be adversely affected by the District's proposed action because:

a. Petitioner is a student at the University of North Florida (UNF). A major inducement in petitioner's decision to attend UNF was the environmental attributes of the campus itself and UNF's tradition of promoting and protecting the educational and recreational values of its natural amenities.

b. Petitioner is an officer of the Sawmill Slough Conservation Club (Sawmill Slough). Sawmill Slough is an unincorporated voluntary association of students and is an officially recognized campus organization. Sawmill Slough is dedicated to protecting and conserving the natural resources of the UNF campus. It serves as the campus based environmental watchdog and represents the environmental interests of the

student body, faculty, and alumni, which overwhelmingly oppose all the parts of the loop road. Sawmill Slough was instrumental in creating and obtaining national designation of a system of trails running through natural areas of the campus.

c. Petitioner's enjoyment and use of the wet and upland systems and the educational and recreational benefits they provide, campus plant and wildlife communities and the nature trails, will be adversely affected by the proposed activities.

d. It is the associational duty of petitioner as President of Sawmill Slough, to protect the natural resources and environmental amenities of the UNF campus and to prevent encroachments or diminishment of campus nature trails.

4. Petitioner received notice of the District's intent to grant this application by word of mouth shortly before a meeting to grant the permit was held.

5. Petitioner disputes the following issues of material facts:

a. The announced purpose for the road is false and the alleged need is unproven. The real purpose of the loop road is to benefit the private interests of offsite developers and speculators. Furthermore, the road will not relieve traffic congestion.

b. The amount of wetlands lost or adversely affected

may be more than that estimated in the application.

c. The direct and indirect impacts and effects on Sawmill Slough, Boggy and Buckhead Branches from the proposed activities will be more harmful than estimated by the District.

d. The applicant has not given reasonable assurances that its activities will not:

(1) Adversely affect public land, recreational values, natural resources, and the conservation of fish and wildlife, including listed species or their habitats.

(2) Be otherwise inconsistent with the overall objectives of the District or harmful to the water resources of the District.

(3) Violate water quality standards.

(4) Be contrary to the public interest.

e. The cumulative impacts from the loop road and additional projects in the area including proposed new roads and interchanges, a research and development park, a shopping center and new residential development will adversely affect water quality and fish and wildlife.

6. Based on the foregoing, petitioner believes that the criteria and standards of Chapters 373 and 403 of the Florida Statutues and applicable rules are being violated and entitle them to relief.

WHEREFORE, petitioners demand that the applications be denied.

TIMOTHY KEYSER
Attorney for Petitioner
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Post Office Box 92
Interlachen, Florida 32148
(904) 684-4673

VERIFICATION OF PETITIONER'S
PETITION FOR ADMINISTRATIVE HEARINGS

STATE OF FLORIDA
COUNTY OF PUTNAM

I, MICHAEL W. WOODWARD, individually, and as President, of the Sawmill Slough Conservation Club a unincorporated student association of the University of North Florida, swear that the above facts and allegations contained in the Second Amended Petition for Administrative Hearing Verified in Accord with Section 403.412 (5) of the Florida Statutes are true to the best of my knowledge. I also swear that the University of North Florida's road widening and related projects, if permitted by the St. Johns River Water Management District, will impair or

pollute the waters and natural resources of the State of Florida.

Michael W. Woodward

Sworn and subscribed to me
on the 31st day of August, 1990.

Timothy C Keyser

NOTARY PUBLIC
My commission expires: NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES: MAY 6, 1991
BONDED THRU NOTARY PUBLIC UNDERWRITERS

CERTIFICATE OF FILING AND SERVICE

I CERTIFY that the original of this petition has been furnished to William F. Quattlebaum, Hearing Officer, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550, and copies hereof have been furnished to Marcia P. Parker, Attorney for University of North Florida, 1300 Building, 1300 Gulf Life Drive, Jacksonville, Florida 32207 by U. S. mail and Clare E. Gray, Attorney for St. Johns River Water Management District, Post Office Box 1429, Palatka, Florida 32178-1429 by hand delivery this 31st day of ~~September~~ August, 1990.

Timothy Keyser

TIMOTHY KEYSER, ATTORNEY