

OPERATING AGREEMENT

Between

THE DEPARTMENT OF ENVIRONMENTAL REGULATION

and

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

Concerning

CERTIFICATION OF WATER QUALITY STANDARDS

UNDER THE FEDERAL CLEAN WATER ACT

84-16
11/14/84

THIS OPERATING AGREEMENT, made and entered into this 14 day of November, 1984, by and between the St. Johns River Water Management District (SJRWMD) and the Department of Environmental Regulation (DER) is to clarify interagency operating procedures associated with coordination and review of applications for water quality certifications pursuant to Section 401 of the Federal Clean Water Act. The power to apply and enforce surface water quality standards as to agricultural activities and agricultural water management systems as defined in Section 403.913, Florida Statutes, was delegated to SJRWMD by Order of Delegation, dated November 22, 1984, signed by the Secretary of the Department. On September 28, 1984, the Governor designated the SJRWMD, effective December 1, 1984, as the appropriate agency to perform water quality certifications pursuant to Section 401 of the Federal Water Pollution Control Act for agricultural activities and agricultural water management systems as defined in Section 403.913, F.S., occurring within the District's boundaries which require a Section 404 permit.

NOW, THEREFORE, the DER and the SJRWMD agree as follows:

1. The SJRWMD shall notify the DER St. Johns District Office of all requests for certification under Section 401 within three days of receipt of such requests. The DER may offer comment on the certification request within 30 days of receipt. In the event comments are not received within that time period, SJRWMD shall presume that DER has no objection to issuance of the water quality certification. If the DER receives new information concerning the proposed certification prior to the time of certification but after

the 30 day comment period and such information would materially alter the DER's comments then it shall submit additional comments in writing to the District for its consideration prior to District action on the certification request. The DER's right of appeal pursuant to paragraph 6 shall be applicable in this instance. The DER will provide technical and legal assistance to SJRWMD for certification determinations upon request.

2. In the event of material changes in a permit application subsequent to initial notification to DER pursuant to Paragraph 1, SJRWMD shall notify the St. Johns District DER Office within three days of receipt, and DER may provide comments thereon within 20 days.

3. In the event SJRWMD is required to defend a water quality certification decision made pursuant to Section 401 of the Federal Clean Water Act in a legal proceeding, the DER will, upon request, provide technical or legal support needed to assist in the defense of any such action.

4. All certification applications which are pending for which final or intended agency action has not been taken, shall remain the responsibility of DER.

5. SJRWMD shall provide DER with notice of intended agency action on all Section 401 certifications. In the event DER objects to intended SJRWMD action, it shall petition for formal administrative hearing in all cases involving a disputed issue of material fact, or an informal hearing in cases not involving a disputed issue of material fact. In the event DER subsequently disagrees with final agency action taken pursuant to Section 120.57(1)(b)9., Florida Statutes, it may then appeal said action pursuant to Section 373.114, Florida Statutes. The record in that proceeding shall be limited to that which was developed in the prior proceeding.

6. The DER shall only appeal SJRWMD certification decisions pursuant to paragraph 5 in the event it has recommended against granting the certification in accordance with the time limitations of paragraphs 1 and 2 hereof, and said recommendation was not accepted by SJRWMD.

7. In order that the Department may be periodically informed regarding certifications processed by the SJRWMD, information regarding certifications or permits and the certification or permitting program shall be provided to the DER upon request.

8. This operating agreement will be reviewed annually and may be amended or further clarified from time to time with the consent of both the SJRWMD and DER.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective names the day and year first written above.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

By *Victoria J. Shull*
Secretary

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

By *Idwal H. Owen, Jr.*
Idwal H. Owen, Jr.
Chairman of Governing Board

Attest

Attest

Lynne C. Capehart
Lynne C. Capehart
Secretary, Governing Board