

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR LAKE COUNTY, FLORIDA

LAKE COUNTY, FLORIDA,

Case No: 2019-CA-2404

Petitioner,

v.

LAKE COUNTY FISH FARMS, LLC,

Respondent.

_____ /

FINAL JUDGMENT

THIS CAUSE came before this Court on a Joint Motion for Approval of Settlement Agreement filed in this action by the parties, and after review of the file and full consideration thereof, the Court makes these findings of fact and orders as follows:

1. This was an action for injunction due to alleged violations of the Lake County Code by Respondent.
2. Petitioner and Respondent voluntarily entered into a Settlement Agreement, a copy of which is attached as Exhibit "A". The Petitioner and Respondent filed a Joint Motion for Approval of said Settlement Agreement requesting approval of the Court and a reservation of jurisdiction.
3. The Lake County Board of County Commissioners considered and approved entry of the Settlement Agreement at a public meeting held on May 19, 2020.

IT IS ORDERED AND ADJUDGED:

- A. The Joint Motion for Approval of Settlement Agreement is GRANTED.
- B. The Settlement Agreement, a copy of which is attached as **Exhibit "A"**, is ratified and is made a part of this Final Judgment.

C. The temporary injunction order previously entered is dissolved upon the date of approval of this Final Judgment by the Court.

D. This Court reserves jurisdiction to enforce the terms of the Settlement Agreement.

DONE and ORDERED in chambers in Tavares, Lake County, Florida on this 28th day of May, 2020.



JAMES R. BAXLEY
Circuit Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Judgment was served via the Florida E-Filing Portal to Diana Johnson, dmjohnson@lakecountyfl.gov and Alexander B. Cvercko, alex@cverckolaw.com and assistant@cverckolaw.com on this 28th day of May, 2020.



Judicial Assistant

Case No: 2019-CA-2404

Exhibit A to Final Judgment

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR LAKE COUNTY, FLORIDA**

LAKE COUNTY, FLORIDA,

Case No: 2019-CA-2404

Petitioner,

v.

LAKE COUNTY FISH FARMS, LLC,

Respondent.

SETTLEMENT AGREEMENT

Petitioner, LAKE COUNTY, FLORIDA, a political subdivision of the State of Florida, (“County”) and Respondent, LAKE COUNTY FISH FARMS, LLC, a Florida limited liability company (“LCFF”), collectively the “parties”, by and through their undersigned attorneys, hereby enter into this Settlement Agreement providing the terms below and agree to jointly motion the Court for approval of this Settlement Agreement (“agreement”), stating as follows:

WHEREAS, LCFF is the owner of real property located on DonnaVista Place, Eustis, Lake County, Florida (Parcel Id Number: 15-19-27-0001-000-00100, Alternate Key No. 1048150) described as follows:

The Northeast ¼ of the Northeast ¼, Section 15, Township 19 South, Range 27 East, Lake County, Florida.

(hereinafter referred to as the “Subject Property”); and

WHEREAS, LCFF is also the owner of real property located at 21822 State Road 44, Eustis, Lake County, Florida (Parcel Id Number: 10-19-27-0004-000-01400, Alternate Key No. 1069319) described as follows:

The North ½ of the South ½ of the Northeast ¼ of the Southeast ¼; the South ½ of the Southeast ¼ of the Northeast ¼ of the Southeast ¼; and the Southeast ¼ of the Southeast ¼, all in Section 10, Township 19 South, Range 27 East, Lake County, Florida.

and the real property with Parcel Id Number: 10-19-27-0004-000-0300 (Alternate Key 3884112) described as follows:

The South ½ of the Southwest ¼ of Northeast ¼ of the Southeast ¼, Section 10, Township 19 South, Range 27 East, Lake County, Florida.

(hereinafter collectively referred to as the “Fish Farm Property”); and

WHEREAS, the Lake County Code and its Land Development Regulations contain provisions restricting development activity, use of land, mining activities, and hauling without a permit or approval of the Lake County Board of County Commissioners; and

WHEREAS, Lake County filed an injunction seeking to restrain or prevent LCFF, on a temporary basis, from engaging in certain development of, mining activities on, and hauling from the Subject Property without prior approval of the County; and

WHEREAS, LCFF has already improved the Fish Farm Property for aquaculture purposes as shown on the plan attached hereto as **Exhibit “A”** and incorporated herein; and

WHEREAS, the parties seek to enter into an agreement to resolve this matter and find that this agreement is in the best interest of both parties.

NOW, THEREFORE, the County and LCFF agree as follows:

1. Recitals. The above recitals are incorporated in this agreement:
2. Agreement. The County and LCFF voluntarily enter into this agreement and agree to following:
 - A. LCFF agrees to reclaim to the satisfaction of the County all ponds located on the Fish Farm Property labeled as Ponds 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 on Exhibit A. The parties agree that reclamation of at least six (6) of the Ponds listed in this paragraph 2(A) will occur within three (3) months of the date of approval of this agreement by the Circuit Court. The reclamation of the remaining Ponds listed in this paragraph 2(A), those in which are not reclaimed with the three (3) month period, will be reclaimed by LCFF within six (6) months of approval of this agreement by the Circuit Court.
 - B. Concurrent with, or after completing the actions to the satisfaction of the County, listed in paragraph 2(A) above, LCFF may haul 250,000 cubic yards of soil, rock, gravel, and sand (hereinafter collectively referred to as “material”) off the Subject Property. LCFF will provide records of amount hauled and a hauling fee to the County in accordance with paragraph 2(K) below.

- C. Within six (6) months of the removal of 250,000 cubic yards of material per paragraph 2(A) and 2(B), or prior to the removal of an additional 250,000 cubic yards of material from the Subject Property, whichever occurs first, LCFF will reclaim to the satisfaction of the County all ponds located on the Fish Farm Property labeled as Ponds 1, 2, 3, 4, 5, 6, 7, 11, and 12 on Exhibit A. LCFF will provide records of amount hauled and a hauling fee to the County in accordance with paragraph 2(K) below.
- D. After approval of the work performed pursuant to Section 2(A) by Lake County, concurrent with, or after, completing the actions listed in paragraph 2(C), LCFF may haul an additional 250,000 cubic yards of material off the Subject Property. LCFF will provide records of amount hauled and a hauling fee to the County in accordance with paragraph 2(K) below.
- E. Upon approval by Lake County of the reclamation of Ponds 1, 2, 3, 4, 5, 6, 7, and 11, through 26, LCFF may remove a final 250,000 cubic yards of material from the Subject Property. LCFF will provide records of amount hauled and a hauling fee to the County in accordance with paragraph 2(K) below. LCFF shall stop hauling material offsite when it reaches a total of 750,000 cubic yards of material from the Subject Property. No further material may be removed from the Subject Property and the Fish Farm Property once this threshold is reached.
- F. Should LCFF choose to abandon or otherwise stop utilizing Ponds 8, 9 and 10 for aquaculture, LCFF will reclaim those ponds within three (3) months of ceasing aquaculture operations by filling in the ponds and grading to surrounding site grades followed by one of the methods of reclaiming set forth in paragraph 2(J). LCFF must have a valid aquaculture certificate from the Florida Division of Agriculture and Consumer Services so long as these ponds are operated for that purpose.
- G. Ponds 13 through 26 shall be filled, graded and reclaimed no later than six (6) months from the date this Agreement is approved by the Circuit Court and Ponds 1 through 7 and 11 and 12 shall be filled, graded and reclaimed within twelve (12) months of the date this is approved by the Circuit Court Agreement. However, LCFF may remove up to 750,000 cubic yards of material as market conditions provide, subject to the limitations set forth in this Agreement.

- H. Upon approval of this agreement by the Lake County Board of County Commissioners, the Lake County Manager or his designee will, on behalf of the County, sign a St. Johns River Water Management District Form 40C-41.033(4) for the Subject Property and for the Fish Farm Property so that LCFF can obtain the necessary permits for the operation identified herein.
- I. The County and the LCFF acknowledge that LCFF is seeking an environmental resource permit to be issued by the St. Johns River Water Management District (SJRWMD) regarding the Subject Property and Fish Farm Property. In the event that a provision in this paragraph 2(I), stated below, conflict with such permit, the parties agree that the provisions and requirements of the SJRWMD permit will govern. LCFF will provide the County will a copy of the final issued permit and any permit amendments or modifications. The County and LCFF agree as follows regarding setbacks and slopes on the Subject Property and Fish Farm Property:
- 1) Concurrently with reclamation of the Ponds, and no later than twelve (12) months after approval of this agreement by the Circuit Court, LCFF shall slope the current east and west perimeter of the excavation of the Fish Farm Property to a minimum of 4:1 from the property line as identified in Exhibit B.
 - 2) LCFF will reclaim the remainder of the Subject Property where material has been removed
 - 3) LCFF will at all times maintain a twenty-five-foot (25') setback from the property lines of the Subject Property, unless otherwise agreed to by LCFF and the County in writing.
 - 4) LCFF agrees to maintain a 4:1 slope from the setback line for the Subject Property.
 - 5) LCFF agrees to leave the existing tree line on the west property boundary of the Fish Farm Property. In addition, LCFF will plant pines trees along the east property boundary of the Fish Farm Property as follows: two rows of trees to create a visual barrier, with red cedar planted in the outside row and slash pine planted on the inside row offset from the cedar row. Trees will be planted ten (10) feet apart and will be within the twenty-five (25) foot setback from the property line; provided, however, LCFF will not be required to plant trees in areas where there is an existing tree line on the east property line. The plantings will be seedlings and will be

planted during the rainy season unless LCFF proposes to use a watering truck to keep the plants watered.

- J. For purposes of this agreement, 'reclaim' and 'reclamation' is defined as and will be done by LCFF or its contractor(s) by one of the following methods: (i) Fill with new material or regrade the entire property using existing site material; (ii) Lay six (6) inches of topsoil so that site will reestablish with new growth; or (iii) Seed and mulch the site and water in until established. The County recommends that the method of recommendation follow the State of Florida, Department of Transportation (FDOT) specifications for revegetating bare areas, such as hydroseeding and other methods of establishing new grass cover. Prior to the start of reclamation by LCFF or its contractor(s), LCFF will provide the Lake County Public Works Department a plan completed by an environmental or biological consultant identifying the selected method(s) of reclamation. After review of the plan, the Director of Lake County Public Works or his/her designee will provide a written notice to proceed, either by mail or email to counsel for the LCFF. In no event shall LCFF knowingly utilize any hazardous, contaminated or unclean material for purposes of completing its reclamation obligations.
- K. LCFF will provide records to the Lake County Public Works Department on a monthly basis (due no later than the 10th day of the month following) that document the number of truckloads and the volume of material hauled on a daily basis. Hauling to and from the Subject Property and Fish Farm Property will impact pavement structure and surface of roads within the County road system. LCFF will pay to the County \$0.20 per cubic yard of material hauled offsite. The first payment will be remitted to the County on or before three (3) months from the date of approval of this agreement by the Circuit Court and will be remitted to the County on quarterly basis, until hauling provided under this agreement has concluded.
- L. LCFF will provide a bond to the County for 100% of the estimated reclamation costs of Ponds 1-26. The bond must meet all requirements of Florida Statutes, Section 255.05(1)(a) and be acceptable to the Lake County Attorney's Office. The bond will be provided to Lake County within thirty (30) days of the date this agreement is approved by the Court. An engineer's signed and sealed estimate will accompany the

bond. Lake County shall release and return the bond upon completion and approval by Lake County of the work and reclamation set forth herein.

- M. LCFF agrees to periodic inspections of the Subject Property and the Fish Farm Property by employees of the Lake County Public Works Department and the Lake County Office of Code Enforcement during the term of this agreement.
- N. LCFF agrees to provide the following safety measures for so long as material is being removed from the Subject Property and Fish Farm Property:
- 1) Install a flashing solar powered stop sign at the intersection of the entrance and SR 44 to control traffic leaving the Fish Farm Property ;
 - 2) Hire a flagman to be present onsite on SR 44 on high volume days (defined as 200 or more trucks per day, or 30 or more trucks pe hour) to control trucks leaving the site;
 - 3) Hand out notices to each driver entering the site notifying them that they must come to a complete stop at the intersection when leaving the site; and the failure to do so or complaints received will result in the driver being banned from the site;
 - 4) Install “Trucks Entering Highway” signs (or equivalent language) on SR 44 as approved by the Florida Department of Transportation (FDOT); and
 - 5) Utilize variable message boards on SR 44 on high volume days to warn motorists of truck traffic entering the highway, subject to the approval of FDOT.
- O. LCFF agrees that neither the Subject Property nor the Fish Farm Property will ever be used as a landfill. For purposes of this agreement, a “landfill” is defined as a solid waste land disposal area that receives solid waste, including residue from an incinerator, for disposal in or upon land other than land-spreading site, injection well, or a surface impoundment. LCFF also agrees that the neither the Subject Property nor the Fish Farm Property will ever be used as a depository for construction and demolition debris. For purposes of this agreement “construction and demolition debris” means discarded materials generally considered to be not water soluble and non-hazardous in nature, including but not limited to: steel, glass, brick, concrete, asphalt roofing materials, pipe, gypsum wallboard, or lumber resulting from the construction, destruction or renovation of a structure. This provision will be binding on the successors or assigns of the LCFF. LCFF agrees to record in the public records of Lake County any documents necessary to place future purchasers on notice of this restriction.

P. LCFF agrees that it will not remove or destroy any old growth oaks on the Subject Property located in the wetland areas, nor shall LCFF remove or destroy the wetland areas.

Q. LCFF and its agents shall only move and/or load and remove material from the Project between 7:00 a.m. and 5:00 p.m., Eastern Standard Time Monday through Friday, or 7:00 a.m. and 3:00 p.m. on Saturdays; provided, however, that the hours of operation shall be between 7:30 a.m. and 5:30 p.m. (or 3:30 p.m. for Saturdays), on the following dates:

- 1) December 1 through February 15;
- 2) 4 weeks after Daylight Savings Time begins (mid-March); and
- 3) 6 weeks before Daylight Savings Time ends (early November).

Hauling is limited to Monday through Saturday and shall not occur on Sundays, or federal holidays: New Year's Day, Birthday of Martin Luther King, Jr., President's Day, Memorial Day, Independence Day/4th of July, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day. Trucks are not permitted to park, stop, or impede traffic on any public roadway while waiting for the project site to open, or while waiting to deliver or be loaded during the permitted hours.

R. Prior to the start of hauling the material off-site, LCFF will provide plans showing the material to be delivered or removed, show the existing topography as of the effective date of this agreement for the Fish Farm Property and the Subject Property, and the proposed final grading of the Fish Farm Property and the Subject Property when the removal of material has ended. A topographic survey will be provided by the LCFF upon completion of the material removal to verify that the final grades match the approved plan. The final grading shall be at least five (5) feet above the Seasonal High Water (SHW) elevation established by a geotechnical engineer.

3. Entire Agreement. This agreement will be effective upon the signature of the parties and will remain in effect until such time as the work and reclamation provided herein is completed and the bond provided in paragraph 2(L) is released. This agreement fully resolves the claims and assertions in this legal action by the County against LCFF concerning the Subject Property.
4. Land Use Approvals. This agreement is only applicable to the real properties listed within it. This agreement does not provide LCFF with any vested rights, exemptions, zoning or land use approvals by the County and in no way acts as a taking or a burden to any property

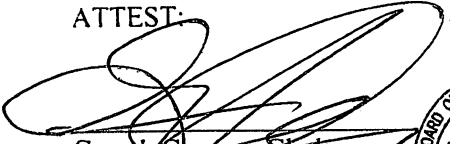
owned by LCFF. The parties acknowledge that, unless clearly stated within this Agreement, the County makes no assurances to LCFF that LCFF will receive any approval or authorizations from any other federal, state, city, or local governmental entities regarding the Property.

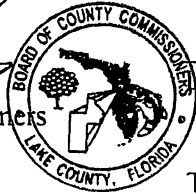
5. Modification. This agreement may not be modified or amended without the written instrument duly executed by both the County and authorized representative of LCFF.
6. Assignment. This agreement is binding upon and will benefit of each party and their respective successors and assigns. LCFF may assign this agreement upon conveyance of the property to a third-party upon written notice to the County.
7. Governing Law and Default. This agreement is made under, and in all respects will be interpreted and governed by and in accordance with the laws of the State of Florida. Venue for any action related to this agreement in the Circuit Court in and for Lake County, Florida.
8. Fees and Costs. The County and LCFF agree to bear their own attorneys' fees and costs related to this action.
9. Jurisdiction. Upon approval of this agreement by the County and LCFF, the parties agree to jointly file a motion with the Circuit Court seeking approval of the agreement between the parties. The County and LCFF agree that the Circuit Court in and for Lake County, Florida will retain jurisdiction of this action for the purpose of enforcing the terms of this agreement. In the event of a default of a provision contained in this agreement, the attorney for the non-defaulting party agrees to provide notice of the default in writing or email to the other party's attorney and provide such party with fourteen (14) business days to cure, prior to requesting enforcement of such issue by the Court. In the event a party fails to comply, the non-defaulting party may file a verified motion with the Circuit Court to re-open this action, or as otherwise permitted by the Court.

{Signature pages to follow}

SETTLEMENT AGREEMENT BETWEEN LAKE COUNTY FISH FARMS, LLC AND LAKE COUNTY

ATTEST:


Gary J. Cheney, Clerk
Board of County Commissioners
of Lake County, Florida



BOARD OF COUNTY COMMISSIONERS
LAKE COUNTY, FLORIDA


Leslie Campione, Chairman

This 26th day of May, 2020.

Approved as to form and legality:

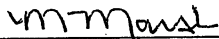

Melanic Marsh, County Attorney

EXHIBIT A

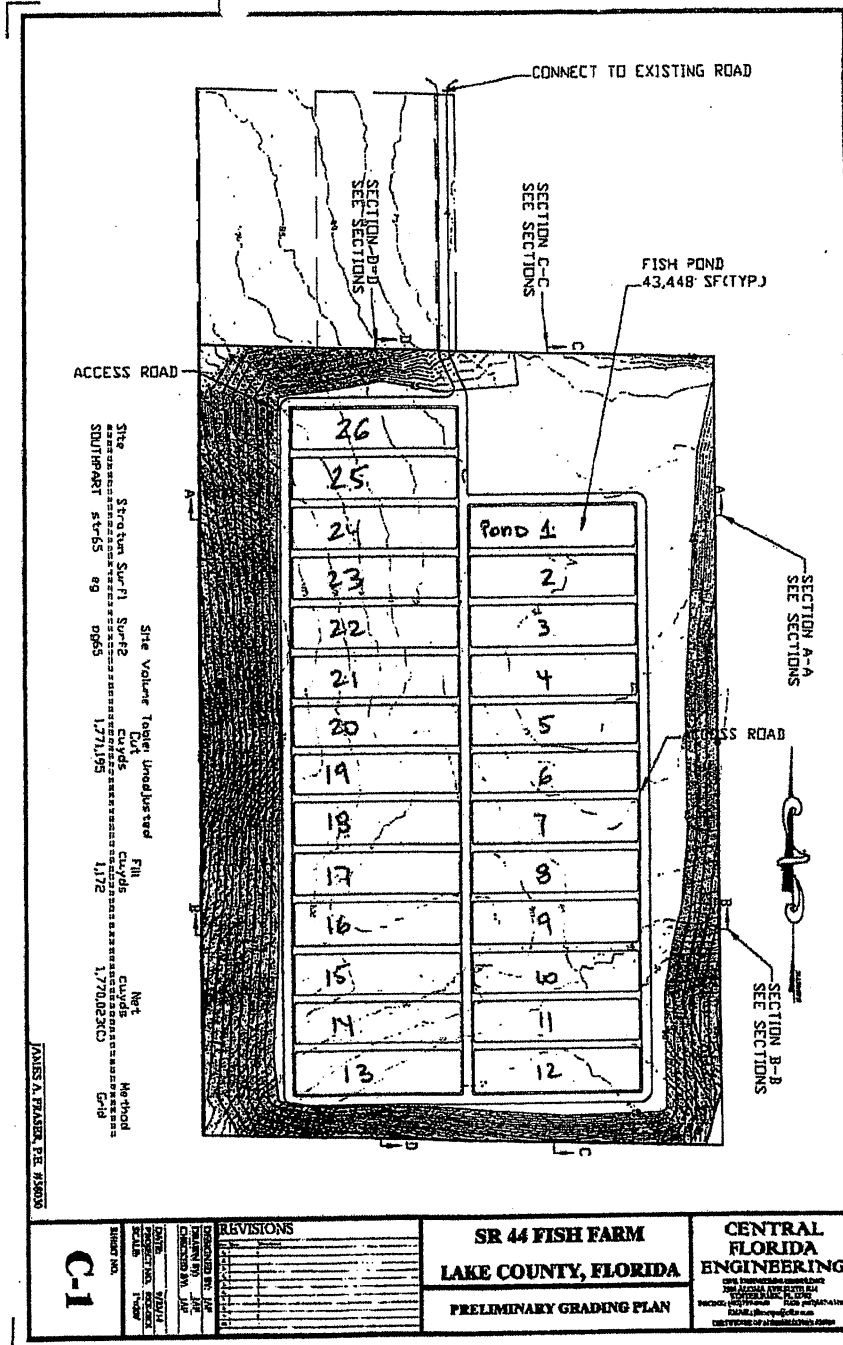


EXHIBIT B

