

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.

JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT

Petitioner, LAKE COUNTY, FLORIDA (“County”), and Respondent, LAKE COUNTY FISH FARMS, LLC (“LCFF”), by and through their undersigned attorneys, jointly file this motion for approval of a Settlement Agreement entered between the parties, and jointly state as follows:

1. The County is a political subdivision of the State of Florida and has authority pursuant to Fla. R. Civ. P. 1.610, Florida Statutes § 162.30 and Section 1-8 of the Lake County Code to file this action.

2. LCFF is the owner of property located on DonnaVista Place, Eustis Lake County, Florida and described as follows:

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

Parcel Id: 15-19-27-0001-000-00100, Alternate Key No. 1048150 (“Property”).

3. This Court has jurisdiction because the Property is located in Lake County, Florida.
4. The Honorable Court entered into an injunction order stipulated to by the parties.
5. The County and LCFF have entered into a written Settlement Agreement, a copy of which is attached hereto as **Exhibit “A”**.

6. The parties jointly file this Motion and request this Honorable Court approve the Settlement Agreement and enter a Final Judgment.

7. The parties agree that if a hearing is necessary on this cause, that both parties stipulate to such hearing being held telephonically and the parties agree, pursuant to Fla. R. Civ. P. 1.451, that witnesses to testify at the hearing may appear by conference telephone without opposition. Further, the parties agree if testimony of witnesses will be presented at such hearing, presentation may be made by conference telephone and oath will be administered by a notary public or other person authorized to administer oaths in the witness's jurisdiction is present with the witness and administers the oath consistent with the laws of the jurisdiction.

8. The parties agree that the Court will reserve jurisdiction over this action.

WHEREFORE, LCFF and COUNTY jointly respectfully request that this Honorable Court enter an order approving the Settlement Agreement between the parties; find that the Settlement Agreement resolves all claims asserted in this subject action; reserve jurisdiction over this action; and for any other relief that is just and proper.

DIANA JOHNSON
Deputy County Attorney
Florida Bar No. 69160
Lake County Attorney's Office
Post Office Box 7800
Tavares, Florida 32778-7800
(352) 343-9787
dmjohnson@lakecountyfl.gov
slara@lakecountyfl.gov
Attorney for Lake County, FL
DATE:_____

ALEXANDER B. CVERCKO
Florida Bar No. 186200
Cvercko & Associates, PA
13500 Sutton Park Drive S., Suite 304
Jacksonville, FL 32224
PH: (9024) 821-8700
FX: (888)477-3412
alex@cverckolaw.com
assistant@cverckolaw.com
Attorney for LCFF
DATE:_____

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LAKE COUNTY FISH FARMS, LLC,

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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 $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, 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 $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$; the South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$; and the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, 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 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 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 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 Manger 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.
- 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.

- 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 site;
 - 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 per 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.
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.

IN WITNESS WHEREOF, the parties have made and executed this settlement agreement on the respective dates under each signature: LAKE COUNTY through its Board of County Commissioners, signing by and through its Chairman and by LCFF, through its duly authorized representative.

LAKE COUNTY FISH FARMS, LLC

By: _____
Printed Name: _____
Title: _____

This ____ day of _____, 2020.

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by __ physical presence or __ online notarization, this ____ day of _____, 2020, by _____, as authorized representative of Lake County Fish Farms, LLC , who is personally known to me or who _____ has _____ produced as _____ identification.

(SEAL)

Notary Public (Signature)

Print Name: _____

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

ATTEST:

BOARD OF COUNTY COMMISSIONERS
LAKE COUNTY, FLORIDA

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

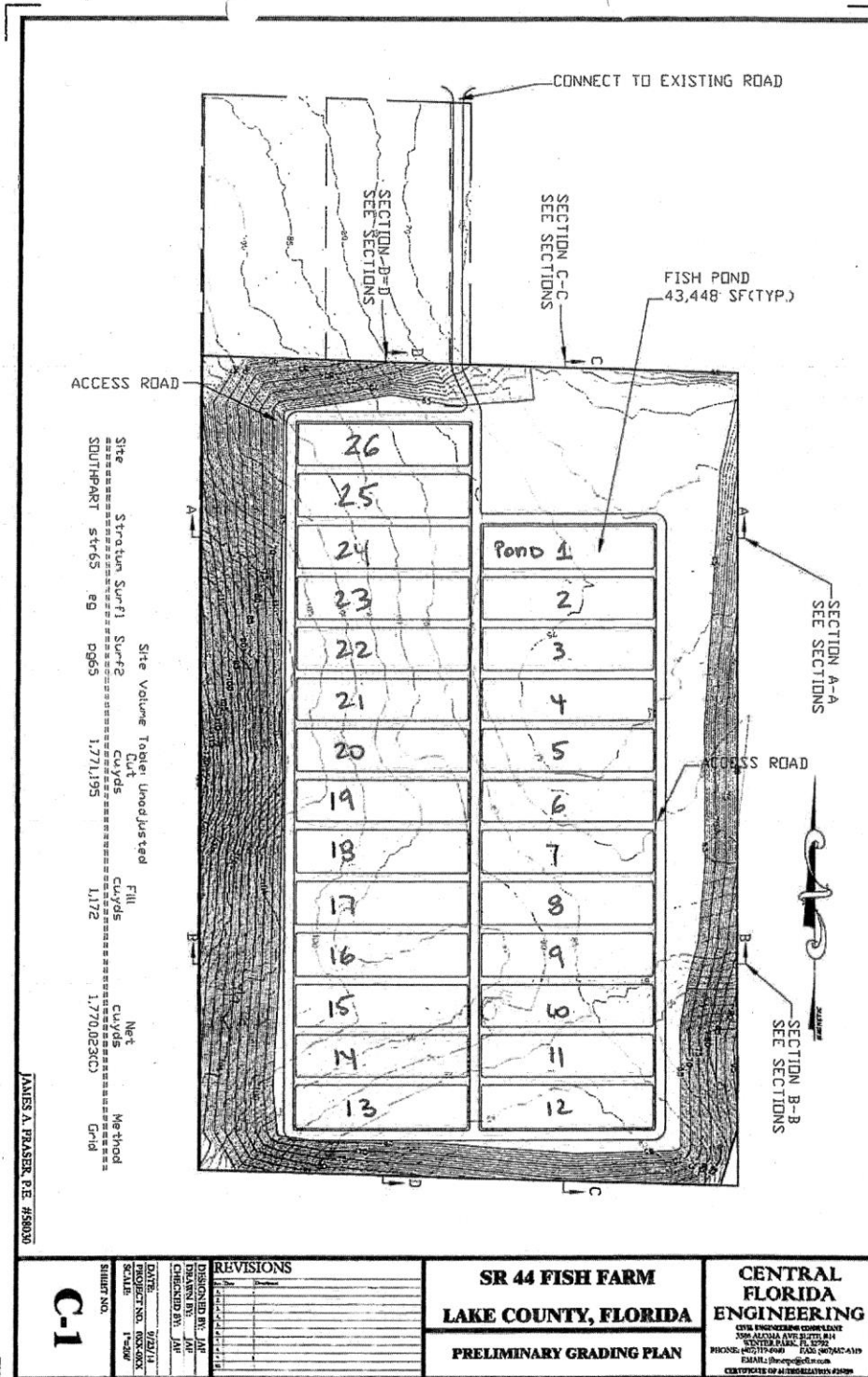
Leslie Campione, Chairman

This ____ day of _____, 2020.

Approved as to form and legality:

Melanie Marsh, County Attorney

EXHIBIT A



JAMES A. FRASER, P.E. #58036

C-1	REVISIONS	SR 44 FISH FARM LAKE COUNTY, FLORIDA	CENTRAL FLORIDA ENGINEERING
	DATE: 5/21/11 PROJECT NO.: 080306 DRAWING NO.: 1500 CHECKED BY: JAF DESIGNED BY: JAF	PRELIMINARY GRADING PLAN	CIVIL ENGINEERING CONSULTANT 3500 ALUCIA AVE. SUITE 101 GIBLER LAKE, FL 32726 PHONE: (407) 717-6000 FAX: (407) 442-4110 EMAIL: info@cfeng.com CERTIFICATE OF AUTHORIZATION #0009

EXHIBIT B

