

August 27, 2026

Southwest Florida Water Management District

Regulation Division

Attention: Lee Hughes and Todd Boyle

7601 U.S. Highway 301 North

Tampa, Florida 33637-6759

Re: Public comments and request for further review

Brooker Creek Mitigation Bank

ERP Application No. 930235 / Permit No. 47575.002

Applicant's August 26, 2026 Response to Request for Additional Information and subsequently uploaded boundary/topographic survey

Dear Mr. Hughes and Mr. Boyle:

I am writing regarding the proposed Brooker Creek Mitigation Bank, the applicants' [121-page response dated August 26, 2026](#) to the Southwest Florida Water Management District's December 14, 2025 Request for Additional Information, and the [14-sheet boundary and topographic survey](#) subsequently uploaded to the District's permit file.

I oppose approval of this mitigation-bank proposal based on the present public record. The August 26 package supplies revised narrative, maps, calculations, draft legal instruments, a proposed credit-release schedule, and cost tables. Its submission, however, is not a District determination that the application is complete, that the responses are technically sufficient, or that the permit criteria have been satisfied.

The filing itself identifies matters that remain unfinished, contains internal inconsistencies, and relies on assumptions that warrant additional technical and legal review. The subsequently uploaded survey does not cure those deficiencies. Although it confirms the stated gross area of 172.46 acres and depicts boundaries, topography, improvements, utilities, and certain title matters, it is not an ecological survey and does not validate wetland conditions, habitat quality, mitigation-credit calculations, restoration feasibility, or long-term ecological success. It also identifies additional matters that require reconciliation. I respectfully ask the District to keep the application under additional-information review and require the applicants to address the matters below before any permit approval, credit authorization, or initial credit release is considered.

1. Require conclusive evidence of ownership and legal control

The District's RAI requested evidence that the applicant possesses sufficient legal interest in the complete project area. In response, the applicants state that the deed providing Tarpon Woods Properties, LLC with the asserted property interest "is in the process of being recorded" and will be submitted after recording. They similarly state that Jan Stephenson's Crossroads Foundation, Inc. is "in the process of transferring" fee property to Tarpon Woods Properties, LLC. See applicant response at pages 5-6, Responses 15 and 16(b).

These statements describe anticipated future events. They are not recorded evidence of present legal title or control. A title commitment identifying requirements that may be satisfied later is also not the same as a final title policy establishing that those requirements were satisfied.

Rule 62-342.450, Florida Administrative Code, governs mitigation-bank permit applications, and Rule 62-342.650 addresses land-use restrictions on mitigation banks. The ERP Applicant's Handbook also requires reasonable assurance of the legal, financial, and administrative capability to implement mitigation. See [Rule 62-342.450, F.A.C.](#), [Rule 62-342.650, F.A.C.](#), and [ERP Applicant's Handbook Volume I, section 10.3.1.2.1](#).

Requested District action: Require, before finding this issue resolved:

1. A certified copy of every recorded deed necessary to establish ownership of the complete proposed bank area;
2. A current title commitment updated after recordation;
3. A final title determination identifying the legal owner, proposed permittee, operation-and-maintenance entity, and every outstanding requirement or exception;
4. Executed and recordable conservation and access easements with complete legal descriptions; and
5. Confirmation that every person or entity required to grant the conservation easement and accept permit obligations has legally done so.

2. Require current wildlife information for the current application

RAI Item 2 requested the results of wildlife surveys and correspondence from the Florida Fish and Wildlife Conservation Commission concerning the proposed project. The applicants expressly acknowledge that they have not received an additional FWC comment letter for Application 930235. Instead, they attach a June 12, 2025 letter concerning a previous, withdrawn application. See applicant response at pages 1-2.

That historical letter may provide background, but it is not current FWC review of Application 930235. The package also does not present a current, project-wide wildlife survey identifying survey dates, methods, seasonal limitations, personnel qualifications, species observations, habitat use, den or nest searches, or conclusions specific to the revised project.

The District's incorporated ERP criteria provide for FWC review where regulated activities may affect fish, wildlife, or listed-species habitat. See [SWFWMD Rule 40D-4.091 and incorporated Applicant's Handbook provisions](#).

Requested District action: Require:

1. Current FWC review expressly addressing Application 930235 and the August 26 design;
2. A current, project-wide survey prepared by qualified professionals;
3. Disclosure of survey methodology, dates, duration, weather, coverage, limitations, and raw observation results;
4. Evaluation of wildlife movement, nesting, denning, foraging, aquatic habitat, and the effects of fencing, cameras, vegetation removal, mowing, herbicide use, construction activity, and long-term management; and
5. Species-specific avoidance, monitoring, and contingency measures where warranted.

3. Require measurable hydrologic success criteria

The applicants seek credit for restoring 10.92 acres of ponds to freshwater marsh and 0.73 acre of ditch to wetland forested mixed habitat. At the same time, the Mitigation Work Plan states that there is no earthwork associated with the project. It says pond areas too deep for rooted vegetation will remain open water. See applicant response at pages 35, 37, and 56-58.

The Success Criteria Table on page 37 is almost entirely vegetative. It specifies exotic and nuisance coverage, herb and shrub coverage, tree density, planting density, tree height, and basal area. It does not establish measurable success standards for:

- Seasonal water levels;
- Hydroperiod duration and timing;
- Groundwater or surface-water elevations;
- The acreage that must transition from open water to functioning freshwater marsh;
- The maximum acreage allowed to remain unvegetated open water;
- Hydrologic connectivity and exchange with Brooker Creek;
- Water-quality performance;
- Drought and excessive-rainfall contingencies; or
- Corrective action if planted marsh vegetation cannot persist at existing pond depths.

Without measurable hydrologic standards, successful plant installation could be treated as progress even if the claimed wetland restoration does not develop or persist. The District should evaluate ecological function, not merely completion of planting activities.

Requested District action: Require a revised hydrologic monitoring and success plan that includes baseline data, monitoring locations, equipment, reference elevations, seasonal targets, acceptable ranges, performance duration, reporting methods, failure thresholds, and enforceable corrective measures for every wetland assessment area.

4. Resolve the treated-effluent and long-term-water-budget questions

In response to the District's concern about the 1979 Effluent Acceptance Agreement, the applicants state that continued use of up to 382,000 gallons per day of effluent would benefit the bank, but that no amount of effluent is needed to achieve the proposed success criteria. See applicant response at page 7.

This answer raises additional questions. If no effluent is needed, the application should demonstrate through a quantified water budget and monitoring data how the proposed marsh and forested-wetland functions will persist without it. If effluent will continue to enter the site, the application should identify expected quantities, routing, storage, seasonal variability, water-quality effects, overflow conditions, and the relationship to Brooker Creek. The success criteria should not avoid the issue by omitting hydrologic standards.

Requested District action: Require the applicants to provide:

1. A quantified existing- and proposed-condition water budget;
2. Clear operating assumptions for reclaimed-water or effluent delivery;
3. Identification of every relevant agreement, permit, outfall, control elevation, receiving pond, and discharge pathway;
4. Evaluation of nutrient and water-quality effects; and
5. Contingency plans for both cessation and continuation of effluent delivery.

5. Closely review the requested upland-generated credits

The UMAM Summary Spreadsheet requests 37.88 total credits. Of that amount, 23.73 forested credits and 7.09 herbaceous credits are attributed to uplands adjacent to wetlands. Accordingly, 30.82 credits - approximately 81.4 percent of the total requested credits - would be generated from upland supporting habitat. Only 7.06 credits are shown as arising directly from wetland assessment areas. See applicant response at page 35.

The filing divides upland credits between herbaceous and forested types using the acreage ratio 10.92 acres of herbaceous wetlands divided by 46.79 total wetland acres. The footnote incorrectly writes the result as "0.23%," although 10.92 divided by 46.79 is approximately 0.2334, or 23.34 percent. See pages 35 and 39. While the proposed 23/77 allocation appears to use the percentage rather than the erroneous written decimal-percent label, the error should be corrected.

More importantly, the applicants should explain why wetland acreage alone is an appropriate basis for classifying more than 30 credits generated from uplands. The package should demonstrate the functional relationship between each upland assessment area and the wetland type it purportedly supports. It should also justify the location-and-landscape, community-structure, time-lag, risk, and relative-functional-gain values for the separate core and edge areas.

The District, rather than the applicant, is responsible for verifying UMAM information and determining allowable bank credits. See [Chapter 62-345, F.A.C.](#) and the District's [incorporated UMAM provisions](#).

Requested District action: Require:

1. Correction of the 0.23-percent error;
2. Assessment-area-specific support for the classification of upland credits;
3. Separate accounting for the 56.20-acre core and 48.93-acre edge areas throughout the success and credit-release documents;
4. District field verification of baseline conditions and proposed UMAM scores;
5. A written District explanation of any upland-generated credits ultimately allowed; and
6. Reduction or denial of any credits not supported by verified additional ecological function.

6. Reconsider the front-loaded credit-release schedule

The proposed schedule would release 30 percent of the credits at the initial release and another 30 percent upon completion of initial exotic treatment, thinning, and planting or seeding activities. Interim Success Levels 1 and 2 would account for only 10 percent each, with 20 percent reserved for final success. See pages 39-41.

Under that proposal, approximately 22.72 of the requested 37.88 credits could be released before an interim ecological success level is demonstrated. This is especially concerning where:

- Most requested credits are associated with upland supporting habitat;
- The wetland-restoration proposal lacks measurable hydrologic criteria;
- Tree-density commitments conflict across documents;
- Full site-security measures may be deferred;
- Ownership recordation is unfinished; and
- The financial estimate contains apparent defects.

Once credits are sold and used to offset impacts elsewhere, underperformance at the bank can produce consequences beyond this property.

Requested District action: Require a revised schedule that ties a materially larger share of credit releases to verified, durable ecological performance, including hydrologic performance where wetland restoration is claimed. No initial credits should be released until every legal, title, conservation-easement, access, site-security, and financial-assurance prerequisite is conclusively satisfied.

7. Require explicit safeguards against default, abandonment, and later incompatible land use

The present application does not state that the applicants intend to obtain credits, abandon the mitigation bank, or pursue residential construction. This comment does not attribute such an intention to the applicants. It asks the District to address the consequences of default or changed circumstances before credits are released, because mitigation credits may be sold and used to authorize environmental impacts at other locations.

The applicants propose that 30 percent of the credits could be released after satisfaction of initial legal, financial, and site-security conditions, with another 30 percent released after initial treatment, thinning, planting, and seeding activities. If credits were released or sold and the banker later failed to complete implementation, ceased operations, became insolvent, sought to surrender the permit, or pursued an incompatible use, the District and the public would need enforceable protections that do not depend on the banker's continued voluntary performance.

A properly executed, superior, and recorded perpetual conservation easement should continue to burden the land notwithstanding a permit surrender, ownership transfer, operational default, or dissolution of the permittee. Abandonment of permit implementation should not itself release the easement, restore development rights, or authorize clearing, grading, filling, or residential construction. Likewise, all land used to generate or support credits should remain protected even if the land is labeled upland or non-credit-generating, unless the District expressly determines otherwise before credit calculation and release.

Nevertheless, several theoretical pathways require advance scrutiny:

- A final conservation easement could exclude acreage shown within the conceptual bank boundary;
- A legal-description error, reserved right, title exception, superior mortgage, lien, easement, or other interest could limit protection or enforcement;
- A non-credit-generating polygon could be mistakenly treated as outside the protected property;
- Financial assurance could be insufficient to complete restoration after default;
- The permittee or a successor could request a future amendment, exchange, or release of protected land;
- A court order, condemnation, foreclosure involving a superior interest, or other legal process could affect the property; or
- Unauthorized clearing, grading, filling, or construction could occur and require enforcement and restoration.

These are contingency questions, not allegations that any person presently intends to pursue them. They are material because the requested credits could be used to offset impacts elsewhere before the proposed bank demonstrates final ecological success.

Requested District action: Before authorizing any credit release, require the permit, conservation easement, title policy, financial-assurance documents, and credit ledger to establish clearly that:

1. The final conservation easement encumbers the entire 172.46-acre bank boundary, including upland supporting habitat and non-credit-generating areas, except for any exclusion expressly approved and mapped by the District;
2. Every acre used to calculate, generate, classify, support, or release credits is permanently protected against residential and other incompatible development;
3. The conservation easement survives permit surrender, abandonment, default, dissolution, transfer, foreclosure of subordinate interests, and sale of the property;
4. No permit surrender or termination automatically releases or modifies the conservation easement or restores development rights;
5. Every mortgage, lien, easement, covenant, and other interest capable of impairing the conservation easement is released, subordinated, or otherwise resolved to the District's satisfaction;
6. The District and any co-grantee possess enforceable inspection, access, restoration, injunctive, and financial-remedy rights;
7. The financial assurances are sufficient for the District or a replacement entity to complete implementation, monitoring, corrective work, site security, and restoration after default;
8. Credits already released or sold remain traceable and subject to appropriate accounting and remedial action if the bank fails;
9. Any future request to amend, exchange, or release protected acreage receives all legally required technical review, public notice, and agency approval and preserves equivalent or greater ecological value; and
10. Unauthorized clearing, grading, filling, construction, or other incompatible use triggers prompt notice, stop-work, restoration, credit-ledger, and enforcement consequences.

The District should also explain in its staff analysis what would occur if the banker defaulted after the initial or post-construction release, including who would complete the work, what funds would be available, whether unreleased credits would be frozen, how released or sold credits would be treated, and how the conservation easement would be enforced in perpetuity.

Require a comprehensive adverse-outcome and remedy matrix

The permit should not address default only in general terms. Before approval, the District should require the applicants to prepare a comprehensive risk register and contingency-response matrix covering every reasonably foreseeable negative outcome. For each risk, the matrix should identify: the prevention measure; monitoring method; measurable trigger; responsible party; notice recipient; response deadline; corrective action; completion standard; estimated cost; dedicated funding source; effect on pending credit releases; effect on previously released credits; and enforcement remedy if the banker does not act.

At a minimum, the matrix should address:

- Failure to obtain or maintain legal title, easement priority, access, or authority over the entire bank;
- Permit surrender, abandonment, bankruptcy, insolvency, dissolution, death or incapacity of responsible principals, change of control, sale, foreclosure, or loss of a contractor or management entity;
- Failure, cancellation, expiration, impairment, or insufficiency of a bond, letter of credit, insurance policy, escrow, standby trust, or perpetual-management trust;
- Inflation, investment underperformance, unexpectedly high labor or material costs, and exhaustion of perpetual-management principal;

- Failure to complete planting, inadequate plant availability, excessive mortality, failure to meet density or diversity standards, and repeated supplemental planting;
- Failure to establish the proposed marsh or forested-wetland hydroperiod, excessive depth, prolonged inundation, drought, altered groundwater levels, erosion, sedimentation, or hydrologic disconnection;
- Changes in reclaimed-water or effluent quantity, quality, timing, routing, interruption, or termination;
- Nutrient loading, algal blooms, low dissolved oxygen, fish kills, contamination, pollutant release, or adverse discharge to Brooker Creek;
- Hurricanes, extreme rainfall, flooding, drought, wildfire, lightning, windthrow, disease, pests, and other catastrophic events;
- Exotic or nuisance-species reinvasion, herbicide failure, herbicide injury to non-target species, or off-site sources of recurring infestation;
- Listed-species discovery, nesting or denning conflicts, wildlife injury, entrapment, or disruption of wildlife movement;
- Trespass, dumping, unauthorized trails, mowing, clearing, encroachment, pets, vehicles, vandalism, theft, fence damage, sign removal, or camera failure;
- Exercise of utility, drainage, sewer, well, sidewalk, access, golf-related, or other recorded rights affecting protected land;
- Damage to District monitoring stations, loss of access, equipment failure, missing data, biased sampling, delayed reports, or inability to demonstrate success;
- Failure of a permittee, successor, long-term manager, contractor, surety, trustee, or financial institution to perform;
- Unauthorized clearing, grading, filling, construction, subdivision, or other incompatible land use;
- A request to amend, exchange, relocate, or release protected acreage after credits have been released or sold; and
- Any condition in which ecological performance declines after final credit release or after construction and implementation assurances would otherwise be retired.

The matrix should not allow an adverse outcome to be answered merely with "notify the District" or "repair as necessary." Each response should be objective, time-limited, enforceable, and fully funded. Where the applicants cannot identify a reliable remedy, the corresponding credit should be reduced, withheld, or denied.

8. Reconcile the planting-density conflict

The documents are internally inconsistent concerning pine planting in the 105.13-acre golf-course-to-pine-mesic-oak area:

- The cost estimate budgets 4,205 pine trees, which equals approximately 40 trees per acre;
- The Success Criteria Table identifies "Plant 40 TPA" in the baseline/post-construction row but later uses 75 trees per acre; and
- The Mitigation Work Plan says slash pine planting will occur at approximately 75 trees per acre.

See applicant response at pages 37, 53, and 58.

At 75 trees per acre, approximately 7,885 trees would be required across 105.13 acres, roughly 3,680 more than the cost estimate funds. The discrepancy affects the restoration commitment, success criteria, cost estimate, and financial assurance.

Requested District action: Require one enforceable planting standard across the restoration plan, work plan, success table, monitoring plan, cost estimate, and financial-assurance mechanism. The estimate should fund the full number of required plants, installation, mortality replacement, monitoring, and corrective planting.

9. Require an enforceable and fully funded site-security plan

The applicants propose fencing and gates primarily at public-access areas, conservation signs every 50 feet, trail cameras, and cooperation from adjacent homeowners. If trespassing becomes "problematic," they propose installing wildlife-friendly fencing along the full boundary after 60 days' notice from the District. See applicant response at pages 2 and 4 and Mitigation Work Plan at page 58.

This proposal does not define the threshold for "problematic" trespassing. It does not specify camera-review frequency, inspection frequency, reporting deadlines, repair deadlines, responsibility for repeated encroachments, or objective triggers for full fencing. Reliance on future voluntary cooperation from neighboring owners is not an enforceable substitute for a permit obligation.

The applicants also state that the construction and implementation assurance will include the cost of fencing the entire site if necessary. The cost table, however, budgets only 3,000 linear feet for "Fence and Sign Installation." See pages 2 and 53. The proposed bank boundary is plainly longer than 3,000 feet.

Requested District action: Require:

1. A surveyed calculation of the full boundary length;
2. A map identifying every initially fenced and unfenced segment;
3. Objective trespass and encroachment triggers;
4. Inspection, camera-review, notice, reporting, and repair requirements;
5. A binding obligation to install full wildlife-friendly fencing when defined triggers occur; and
6. Financial assurance sufficient to fund full-perimeter installation, gates, signs, maintenance, repair, and replacement.

10. Require a corrected and professionally certified financial estimate

RAI Item 6 requested a detailed current-dollar cost estimate certified by a licensed professional whose Florida license authorizes the certification. Attachment 8 is labeled an "Opinion of Probable Costs," but the two spreadsheet pages do not visibly identify a certifying professional, license, signature, date of certification, or seal. See pages 51-54.

The perpetual-management table also contains an apparent arithmetic error. The Year 15 General Maintenance line lists a \$5,000 unit price and quantity of 1.00 but gives a total of \$250. This appears to understate the 20-year total by \$4,750, which would also affect the annualized cost, contingency, and trust-fund contribution. The table also repeatedly labels years 10, 15, and 20 shrub mowing as "Year 5" shrub mowing.

In addition, the cost estimate should be reviewed for omitted or understated costs, including:

- Full-perimeter contingency fencing;

- Pine planting at the enforceable density;
- Replacement planting and mortality;
- Well abandonment;
- Restroom decommissioning and removal of obsolete infrastructure;
- Surveys, taxes, professional services, and permit administration;
- Fence and gate repair;
- Long-term hydrologic and water-quality monitoring; and
- Corrective measures if wetland or upland success criteria are not attained.

Rule 62-342.700 requires financial responsibility for construction, implementation, and perpetual management and governs the form and amount of those assurances. See [Rule 62-342.700, F.A.C.](#)

The current proposal calculates a perpetual-management contribution of \$128,790.75 based on an assumed 6 percent return. The District should not accept that amount without testing the assumed return, inflation, fees, taxes, market loss, increased treatment costs, catastrophic events, and the need to preserve principal while funding management forever. A twenty-year cost table is not, by itself, proof that funding will remain sufficient in perpetuity.

Requested District action: Reject the draft cost tables as incomplete unless and until the applicants submit a corrected, itemized, current-dollar estimate bearing an appropriate professional certification and funding every enforceable permit obligation. Require corresponding revision of the performance bond and perpetual-management funding mechanism.

Before any credit release, require the applicants to establish an irrevocable, District-approved financial-assurance mechanism expressly covering perpetual management. The instrument should use a form authorized by Rule 62-342.700 and should be held for, payable to, or directly enforceable by the appropriate governmental agency. At minimum, the District should require one of the following, or a stronger combination:

1. A fully funded perpetual-management trust or escrow arrangement with the principal protected and invested under approved standards; or
2. A performance bond, irrevocable letter of credit, or other authorized instrument covering perpetual management, backed by an approved standby trust or escrow so funds remain available if the instrument is drawn.

Regardless of form, the instrument should:

- Remain effective for the perpetual duration of the conservation and management obligations, with no termination merely because the permit is surrendered, the property is transferred, or the permittee ceases business;
- Be bankruptcy-remote and protected from the permittee's creditors to the maximum extent allowed by law;
- Give the District direct authority to draw, direct, or apply funds after defined defaults without first completing prolonged litigation against the permittee;
- Cover ordinary management, monitoring, reporting, exotic control, fencing, repairs, replacement planting, hydrologic correction, catastrophic damage, enforcement-related restoration, and transition to a replacement manager;
- Include conservative assumptions for investment return, inflation, administrative fees, taxes, and market volatility;

- Require periodic professional recalculation and adjustment, with mandatory additional contributions when projected funding becomes deficient;
- Prohibit reduction, cancellation, withdrawal, substitution, or release without prior written District approval and an equal or stronger replacement mechanism already in effect;
- Require advance notice to the District of nonrenewal, cancellation, impairment, downgrade, insolvency, or other adverse change affecting a surety, bank, trustee, insurer, or financial institution;
- Require prompt replenishment after every draw or expenditure necessary to preserve the perpetual funding level;
- Bind successors, assigns, replacement managers, and future owners without interruption;
- Remain separate from construction and implementation assurance unless the District determines that a combined mechanism fully protects both obligations without reducing perpetual funds; and
- State the consequences for failing to maintain the required balance, including suspension of credit releases, freezing of the ledger, mandatory replenishment, and enforcement.

If a performance bond or letter of credit has a finite term, the permit must require automatic renewal or replacement well before expiration and must provide a mechanism allowing the District to draw the full amount into a standby trust or escrow if timely replacement is not delivered. If a trust or escrow is used, the District should require funding sufficient to generate a conservative net annual amount without depleting the principal and should require periodic adjustment for actual costs and inflation.

11. Resolve title exceptions rather than relying on conclusory assurances

The District asked for deletion or resolution of multiple title exceptions. The applicants did not obtain deletion of all identified exceptions. Instead, they argue that certain interests will not affect ecological viability, place some affected areas in non-credit-generating polygons, or promise future notices, affidavits, releases, or terminations. See applicant response at pages 5-9.

Particular attention is warranted for the historic agreement associated with potential production-well rights, utility, sewer, drainage, sidewalk, and golf-related easements, the Ridgemoor Sewer Agreement, restrictive covenants, and instruments that will purportedly be waived or terminated contemporaneously with the conservation easement.

Labeling an area "non-credit generating" does not necessarily eliminate a conflicting property right or its potential effect on perpetual management, access, hydrology, habitat, or enforcement. A promise to repair future damage also does not establish that the holder of a recorded right has subordinated, released, or agreed to exercise that right consistently with the bank.

Requested District action: Require a final title and legal review that identifies, for every exception:

1. Whether the interest is deleted, released, subordinated, waived, terminated, or retained;
2. The executed and recorded document accomplishing the claimed resolution;
3. Its mapped location and acreage;
4. Whether it intersects a credit-generating area, conservation easement, access route, monitoring facility, or hydrologic feature; and
5. The enforceable response if the interest is exercised or causes damage.

12. Require full reconciliation of the newly uploaded boundary and topographic survey

The subsequently uploaded document is a 14-sheet ALTA/NSPS land-title, boundary, and topographic survey prepared for Avalon Building Corp of Tampa Bay and other named transaction parties. The survey bears a May 13, 2026 digital signature date, identifies February 27, 2025 as the date of the plat or map and completion of fieldwork, and relies on Chicago Title Insurance Company Commitment No. 12116542, updated through July 14, 2026. It is useful for evaluating the boundary and title record, but it does not constitute a wildlife, wetland, habitat, hydrologic, or ecological-performance survey.

The survey states that the subject property contains 172.46 acres, more or less, which is consistent with the gross acreage stated in the RAI response. Gross-acreage consistency, however, does not establish that every acre is under adequate legal control, is included in the final conservation easement, is accessible for management and enforcement, or is free from rights capable of interfering with the proposed mitigation bank.

A. Explain the client's removal of Parcel 2 from the survey

Surveyor's Note 9 states: "Client has requested that the Parcel 2 (Easement Estate) be removed from the survey." The survey's legal description consequently describes Parcel 1 and Parcel 3 as fee estates but omits Parcel 2. Other listed title matters nevertheless refer expressly to Parcel 2, including Items 13 and 22.

The record should not leave the District to infer why an easement estate was removed, what rights it contains, or whether the bank depends upon those rights. Removing an interest from the surveyed subject property does not necessarily extinguish it or demonstrate that it is irrelevant to access, drainage, utilities, maintenance, monitoring, or conservation-easement enforceability.

Requested District action: Require:

1. The complete legal description and source instruments for Parcel 2;
2. Identification of its current owner and every person or entity holding rights in it;
3. A written explanation from the applicants and their title counsel stating why the client requested its removal;
4. A complete survey or supplemental exhibit showing Parcel 2 in relation to Parcels 1 and 3, the proposed bank boundary, the proposed conservation easement, the proposed access easement, all monitoring locations, and all management routes;
5. A title opinion addressing whether Parcel 2 supplies or affects access, drainage, utilities, maintenance, golf-related rights, or any other right necessary to establish, operate, monitor, enforce, or assume control of the bank; and
6. Recorded replacement rights or other legally sufficient corrective instruments if removal of Parcel 2 creates any gap in access, control, or enforceability.

B. Establish enforceable conservation-easement prerequisites before any credit release

Survey Item 37 includes a placeholder for the proposed conservation easement from Tarpon Woods Properties, LLC to the District, with the official-records book and page left blank. I recognize that a conservation easement may remain in draft form while a mitigation-bank application is under review and that recording information would not ordinarily exist until the instrument is finalized. The blank recording fields are therefore not presented here as an independent application deficiency or as evidence that the applicants failed to record an instrument prematurely.

The relevant issue is sequencing and enforceability. The permit, credit-release schedule, and final title documents should make recording of the complete and legally sufficient conservation easement—and resolution of every prerequisite affecting its scope, priority, access, and enforceability—an objective condition that must be verified before the first credit is released. Permit approval should not be interpreted as approval of an incomplete legal description, unresolved title conflict, omitted parcel, or future instrument that has not yet received final District legal review.

Requested District action: As express conditions precedent to the first credit release, require:

1. The executed and recorded conservation easement and its official-records book and page;
2. An updated title commitment and final title policy issued after recordation, together with District legal confirmation that all permit conditions governing the easement have been satisfied;
3. A signed and sealed legal description and sketch establishing that the recorded easement matches the complete District-approved bank boundary;
4. Confirmation that the easement has legally acceptable priority over mortgages, liens, easements, covenants, reserved rights, and other interests;
5. Every necessary joinder, consent, release, waiver, termination, and subordination in executed and recorded form;
6. Permanent District access for inspection, monitoring, emergency entry, corrective work, enforcement, and transfer to a successor manager; and
7. Express confirmation that the conservation easement survives permit surrender, abandonment, default, bankruptcy, dissolution, foreclosure of subordinate interests, ownership transfer, and sale, and that it prohibits residential development, subdivision, clearing, grading, excavation, filling, and other incompatible uses throughout the protected area.

C. Require a certified composite overlay rather than separate maps

The survey maps boundaries and numerous easements and improvements, while the RAI separately presents credit-generating assessment areas, non-credit polygons, target habitats, restoration areas, fencing, monitoring, and other project features. The newly uploaded survey does not superimpose those two sets of information. It therefore does not, by itself, substantiate the assertion that utility, sewer, drainage, sidewalk, and other affected areas are confined to the approximately 2.64 acres the applicants classify as non-credit title-exception areas.

This omission is particularly important because the applicants request approximately 81.4 percent of the proposed credits from upland supporting habitat. Any overlap between retained rights and those upland areas may affect protection, management, additionality, ecological function, risk, and allowable credit.

Requested District action: Require a signed and sealed composite exhibit, in both human-readable PDF and usable GIS or CAD formats, showing:

1. Parcels 1, 2, and 3 and every excluded or "less and except" area;
2. The final mitigation-bank and conservation-easement boundaries;
3. Every Schedule B-II title exception, including blanket and non-protractible interests;
4. The 2.64-acre title-exception non-credit area and every other non-credit polygon;
5. Every wetland and upland UMAM assessment area, including core and edge areas;
6. Every proposed credit-generating polygon and its acreage;

7. Existing and proposed utilities, drainage facilities, sewer facilities, reclaimed-water facilities, wells, roads, trails, gates, fences, structures, and monitoring locations;
8. Restoration, planting, exotic-treatment, mowing, and hydrologic-management areas; and
9. An acreage table calculating the intersection of each title interest and infrastructure feature with each conservation, restoration, assessment, and credit polygon.

The District should independently verify the overlay and reduce, withhold, or deny credit wherever a retained right materially impairs perpetual protection, ecological function, restoration, monitoring, access, or enforcement.

D. Resolve blanket and unlocatable interests legally, not merely narratively

The survey identifies several interests as applying broadly rather than to a small, fixed polygon. Item 4 is described as blanket over Parcels 1 and 3. Item 10 is described as blanket over Parcel 1. Items 11 and 16 are also described as blanket over the subject property. Item 32 is said to affect the subject property but to be non-protractible and therefore not shown.

These interests cannot be presumed to lie entirely within a 2.64-acre non-credit polygon. The Item 4 well-related agreement warrants special scrutiny. The RAI states that identified production wells are outside the bank and that the locations of two possible wells were never determined, while the survey continues to identify the underlying instrument as a blanket title matter over both fee parcels. The absence of a presently visible well does not itself extinguish recorded entry, construction, operation, replacement, or water-use rights.

Items 10, 11, and 16 likewise require examination of the actual rights associated with effluent, the referenced bill of sale, and sewer-service or supply arrangements. Item 32 requires legal analysis because it affects the property even though it cannot be spatially plotted.

Requested District action: For each blanket or non-protractible interest, require:

1. The complete recorded instrument and all amendments, assignments, and releases;
2. A title-counsel opinion describing every surviving right and obligation;
3. Identification of who may enter, construct, excavate, clear, repair, operate, replace, expand, discharge, or otherwise use the protected property;
4. Analysis of compatibility with the conservation easement, restoration plan, hydrology, habitat, monitoring, and perpetual management;
5. A binding release, termination, subordination, consent, or limitation where a conflict is possible; and
6. A permit condition prohibiting credit release while any material conflict remains unresolved.

E. Reconcile promised future instruments that remain unresolved on the survey

Survey Item 29 states that the Ridgemoor Sewer Agreement affects Parcel 3 and is shown. The RAI states that a notice and waiver will be recorded contemporaneously with the conservation easement. Survey Item 22 likewise remains listed as a golf-related easement benefiting the property, while the RAI promises its future release or termination. These are commitments to complete future acts, not proof that the acts have occurred.

Terminating Item 22 could also affect rights associated with Parcel 2, which the client asked to remove from the survey. The District should analyze the instruments together rather than review each in isolation.

Requested District action: Require the executed and recorded Item 22 release or termination and the Item 29 notice, waiver, consent, or subordination before any credit release. Require an updated title report and written title opinion confirming exactly which rights were eliminated, which survive, whether access remains complete, and whether the recorded conservation easement has acceptable priority.

F. Reconcile apparent inconsistencies concerning Items 13 and 27

The RAI states that Exception 13 was intentionally deleted from the updated title commitment. The survey nevertheless lists Item 13, says it relates to Parcel 2, and concludes that it does not affect the surveyed subject property by reference to Surveyor's Note 9. Deletion from a title commitment and exclusion resulting from the client's removal of Parcel 2 are different explanations and may have different legal consequences.

The RAI also discusses Item 27 as containing restrictions relevant to Parcel 3 and explains why the applicants believe those restrictions will not interfere with the bank. The survey instead states that Item 27 does not affect the subject property.

Requested District action: Require the title company and applicants' title counsel to reconcile these statements in writing, identify the operative recorded documents, and explain whether each interest was actually released or deleted, was determined never to affect the applicable fee estate, or was made irrelevant only because land or an easement estate was removed from the surveyed subject property.

G. Investigate infrastructure conflicts and require a funded restoration protocol

The survey depicts sewer and drainage easements, utility facilities, reclaimed-water facilities, overhead power, sanitary and stormwater structures, cart paths, fences, and other improvements within or adjacent to the proposed bank. The RAI's general proposal to notify the District and repair damage does not establish who controls entry, what work may occur, how quickly restoration must begin, or how corrective work will be funded if a third-party right is exercised.

Requested District action: Require an infrastructure-conflict and emergency-entry plan identifying, for every facility and easement:

1. The owner, operator, easement holder, and emergency contact;
2. The scope and priority of entry, clearing, excavation, trenching, dewatering, vehicle, herbicide, repair, replacement, relocation, and expansion rights;
3. Required advance and emergency notice;
4. Avoidance and minimization procedures;
5. Restoration deadlines and objective ecological completion standards;
6. The party bearing all restoration and monitoring costs;
7. Dedicated financial assurance available if that party fails to perform;
8. Credit suspension, reduction, debit, or ledger consequences for temporary or permanent loss of function; and
9. A prohibition on expansion or new incompatible infrastructure unless separately reviewed and approved by the District and made consistent with the conservation easement.

H. Require more than an owner's affidavit for unrecorded third-party rights

Survey Items 35 and 36 are identified as matters that the survey does not resolve. Item 35 concerns possible unrecorded membership agreements and associated rights. The RAI proposes addressing membership

interests through an affidavit, but an affidavit by the present owner does not necessarily extinguish contractual, equitable, access, recreational, or other rights held by third parties.

Requested District action: Require the title company to describe its investigation, identify any known current or former holders, determine whether any surviving rights could interfere with restoration or conservation, state whether the final title policy will insure over those matters, and obtain releases where necessary.

I. Correct and verify the legal description

The Parcel 1 legal description printed on the survey includes an apparent bearing of "South 07° 56'92\" East." Because angular seconds ordinarily range from 00 through 59, the stated 92 seconds appears facially irregular. The description also contains other apparent quotation-mark and punctuation irregularities. These may be transcription or drafting errors, but the legal boundary of a perpetual conservation easement must not depend upon an unresolved ambiguity.

Requested District action: Require the licensed surveyor and title company to:

1. Correct or formally explain every apparent legal-description anomaly;
2. Provide a signed and sealed closure report;
3. Confirm that the description mathematically closes without an unexplained gap or overlap;
4. Confirm that the deeds, title commitment, survey, permit boundary, credit exhibits, access easement, and conservation-easement exhibit describe the intended and identical land wherever they are required to do so; and
5. Submit corrected instruments before the conservation easement is executed or recorded.

J. Confirm that the District may rely on the survey

The survey certification names the applicant and specified title or transaction parties, but does not appear to certify the survey expressly to SWFWMD. The District should determine whether it requires recertification, an updated survey, or a reliance letter for permitting, conservation-easement acceptance, access, enforcement, and title-insurance purposes.

Requested District action: Do not rely upon the survey for a final legal or permitting determination unless District counsel and technical staff confirm that it is current, complete, properly certified or supported by an acceptable reliance instrument, and consistent with all final recorded documents.

K. Require proof that perpetual protection covers the entire approved bank

The survey's 172.46-acre figure does not alone establish that all 172.46 acres will be placed under a superior, enforceable conservation easement. Nor does it establish that removed, excluded, non-credit, upland, access, utility, or infrastructure areas cannot later become available for incompatible use.

This concern should not be misunderstood as an allegation that the applicants presently intend residential development. It is a foreseeable enforcement issue that must be eliminated before credits are released. The final documents should make clear that permit surrender, abandonment, default, bankruptcy, transfer, or cessation of bank operations does not release protected acreage, revive development rights, or permit clearing, grading, filling, subdivision, or residential construction.

Requested District action: Require a District-certified acreage reconciliation demonstrating that the final recorded conservation easement protects the complete approved bank boundary, including all upland acreage used to generate or support credits and all non-credit acreage necessary for ecological integrity,

access, buffers, hydrology, management, and enforcement. Any exclusion should be specifically identified, justified, mapped, and evaluated before the District calculates or releases credits.

13. Delineate existing wetlands, proposed credit acreage, and the FEMA regulatory floodway on one controlling survey

The documents do not presently provide one controlling, signed and sealed survey that allows the District or the public to determine exactly where each claimed acre and each requested credit is located. The RAI's UMAM materials identify 46.79 acres of wetland-related assessment areas: 35.14 acres described as altered wetland forested mixed habitat, 0.73 acre of ditch proposed for restoration to wetland forested mixed habitat, and 10.92 acres of ponds proposed for restoration to freshwater marsh. The RAI requests approximately 4.51 credits from the forested-wetland categories and 2.55 credits from the pond-to-marsh category, in addition to approximately 30.82 credits attributed to upland supporting habitat. The newly uploaded boundary and topographic survey, however, does not delineate those wetland assessment areas, show a verified wetland jurisdictional boundary, or associate each requested credit with a precisely surveyed polygon.

The property includes or adjoins flood-prone land associated with Brooker Creek, and resident review of FEMA's Map Service Center indicates that a mapped regulatory floodway extends through a portion of the project area. The District should independently confirm its exact location and acreage from the controlling records. A regulatory floodway is not simply another wetland label. It is the portion of a watercourse and adjacent floodplain reserved to convey the base flood under applicable floodplain-management standards. FEMA explains that communities must prohibit floodway development unless standard hydrologic and hydraulic analysis demonstrates no increase in base-flood levels. See FEMA's [Floodway Analysis and Mapping guidance](#). The District should use the effective FEMA Flood Insurance Rate Map, Flood Insurance Study, National Flood Hazard Layer data, and all effective Letters of Map Change or revisions—not an informal screenshot or an applicant-created approximation—to determine the controlling floodway boundary.

The applicant should not receive credit merely for the acreage or existing ecological functions of wetlands that are already present. Florida's mitigation framework may allow appropriately supported restoration, enhancement, or preservation credit on existing wetlands, but the credit must represent verified additional functional gain attributable to the permitted mitigation. Existing baseline function must be measured and subtracted under the [Uniform Mitigation Assessment Method in Chapter 62-345, Florida Administrative Code](#). Preservation credit, if requested, must be identified as preservation and independently justified; it should not be presented as though an existing wetland were newly created or restored. Likewise, regulatory-floodway acreage should not generate credit merely because it is already protected from or constrained against development by floodplain regulations.

A. Require a surveyed acreage and credit ledger

Requested District action: Require a signed and sealed Existing Conditions, Mitigation Activities, and Credit Allocation Survey that assigns a unique identifier to every polygon and states, for each polygon:

1. Exact surveyed acreage;
2. Existing land-cover and wetland classification;
3. Whether it is an existing jurisdictional wetland, other surface water, pond, ditch, upland, buffer, utility area, access area, maintenance trail, reservoir, excluded area, or other category;
4. The source and date of the wetland delineation;

5. Existing UMAM scores and existing ecological functions;
6. The specific proposed mitigation activity—creation, restoration, enhancement, preservation, or no mitigation activity;
7. The specific physical and management work proposed within the polygon;
8. The projected with-mitigation condition and UMAM scores;
9. The mathematical difference between existing and projected function;
10. Time-lag and risk factors;
11. Requested credit type and exact credit quantity;
12. Whether the polygon lies wholly or partly within the FEMA floodplain or regulatory floodway;
13. Whether it is included in the conservation easement;
14. Every overlapping title exception, easement, utility, access route, or existing improvement; and
15. The reason any acre receives credit, receives reduced credit, or receives no credit.

The polygon ledger should reconcile exactly to the 172.46-acre gross boundary, the 46.79 acres of wetland-related assessment areas, the 114.82 acres of upland supporting habitat, the 10.85 acres presently identified as non-credit acreage, and the requested 37.88 total credits. No acre should be counted in more than one acreage or credit category unless the overlap is expressly identified and mathematically prevented from producing duplicate credit.

B. Require a current, verified wetland delineation

The District should not rely solely on generalized land-cover mapping to determine the location or acreage of existing wetlands. A current jurisdictional wetland and other-surface-water delineation should be shown on the boundary/topographic survey and tied to recoverable field monuments or survey coordinates. The delineation should distinguish existing natural wetlands from altered wetlands, excavated ponds, ditches, and uplands and should show how each boundary was verified.

Requested District action: Require:

1. A current wetland and other-surface-water delineation prepared by qualified professionals using the applicable methodology;
2. District field verification of the delineation and baseline condition before authorization of work or credits;
3. Survey-grade coordinates and exact acreage for every wetland, pond, ditch, and other-surface-water polygon;
4. Date-stamped field data, photographs, data sheets, transects, representative sampling locations, and the basis for each classification;
5. Identification of any wetland acreage that has changed since prior applications, surveys, aerials, or agency reviews and an explanation for each change; and
6. A prohibition against using mitigation activities themselves to obscure, relocate, or retrospectively redefine the baseline wetland boundary.

C. Award only verified incremental functional gain

For each existing wetland, pond, or ditch, the District should distinguish existing function from additional function produced by enforceable mitigation. Exotic control, planting, or preservation may improve a degraded system, but the applicant should receive only the functional gain that remains after the existing

baseline score, time lag, risk, existing regulatory constraints, and likelihood of future degradation without the bank are properly evaluated.

Requested District action: Require the applicants to demonstrate, polygon by polygon:

1. The existing functions already being provided without the mitigation bank;
2. The objective evidence supporting any claimed degradation;
3. The causes of degradation and whether those causes will actually be removed;
4. Why the proposed work will produce durable additional function rather than temporary cosmetic improvement;
5. Why the claimed with-mitigation scores are achievable under existing hydrology and title constraints;
6. What portion, if any, of the credit request is based on preservation rather than restoration or enhancement;
7. Whether existing laws, floodway restrictions, easements, covenants, or development limitations already reduce the threat of loss used to justify preservation value;
8. How double counting between wetland enhancement, upland support, buffers, floodway protection, and preservation has been prevented; and
9. The amount by which credits must be reduced if monitoring demonstrates less functional gain than projected.

No credit should be awarded for preexisting wetland acreage or baseline ecological function by itself. Credit should be limited to additional, measurable, enforceable, and durable functional gain verified by the District.

D. Overlay and protect the FEMA regulatory floodway

The final survey should show the effective FEMA regulatory floodway, the one-percent-annual-chance floodplain, applicable base-flood elevations, mapped cross sections, and any effective Letter of Map Amendment, Letter of Map Revision, conditional revision, or other map change affecting the property. It should calculate the exact number of project, wetland, upland, restoration, non-credit, and credit-generating acres within each flood-hazard category.

Requested District action: Require:

1. A signed and sealed flood-hazard overlay based on the effective FEMA Map Service Center and National Flood Hazard Layer data, applicable Flood Insurance Study, and all effective map revisions;
2. Identification of the controlling FIRM panel number, effective date, flood zone, regulatory-floodway boundary, base-flood elevations, cross sections, and vertical datum;
3. Surveyed acreage of every assessment and credit polygon lying within the regulatory floodway and floodplain;
4. A hydraulic and floodplain analysis prepared by an appropriately licensed professional addressing existing and proposed conditions;
5. Written confirmation from the applicable local floodplain administrator concerning required permits, approvals, and no-rise or other applicable demonstrations;
6. Analysis of whether planting density, fencing, debris accumulation, fill, grading, excavation, berms, trails, structures, abandoned infrastructure, vegetation management, or restoration activity could

obstruct conveyance, redirect flow, raise flood elevations, increase velocity, increase erosion, or transfer flood risk to neighboring properties;

7. A work plan that establishes a no-disturbance buffer around the regulatory floodway unless the District and local floodplain administrator expressly determine that a particular ecological activity is necessary, lawful, and will cause no adverse hydraulic effect;
8. Construction staking, independent inspection, photographic documentation, and as-built certification proving that prohibited disturbance did not occur; and
9. An immediate stop-work, notification, remediation, financial-assurance, and credit-ledger response for any unauthorized floodway encroachment or hydrologic effect.

The applicant should receive no credit merely for land's location within a regulatory floodway or for development restrictions that already apply there. If any floodway acreage is proposed to generate mitigation credit, the applicants should separately identify it and prove both: (a) additional ecological functional gain beyond the existing condition and existing regulatory protection; and (b) no adverse effect on flood conveyance, flood elevations, erosion, or neighboring property. Unless both showings are made and independently verified, the District should exclude that acreage and its claimed functions from the credit calculation.

E. Protect residents against downstream and off-site consequences

Because the site is embedded within an established residential community, the District's review should expressly evaluate whether any proposed vegetation change, obstruction, grading, pond conversion, drainage alteration, fence, trail, utility repair, or long-term maintenance decision could alter flood storage, conveyance, water-surface elevation, velocity, duration of inundation, or drainage on neighboring property.

Requested District action: Require existing- and proposed-condition modeling for appropriate storm events; disclose model files, assumptions, boundary conditions, topography, roughness values, tailwater conditions, calibration information, and results; map any predicted off-site change; and prohibit permit issuance unless the applicants provide reasonable assurance that the project will not increase flood risk or cause adverse off-site impacts. The permit should require corrective action and dedicated funding if subsequent monitoring reveals an unanticipated adverse effect.

14. Protect District monitoring access through enforceable documents

The applicants state that the project will not affect Surface Water Monitoring Station No. 21116 and that they are "amenable" to continuing District access. See response at page 4. An expression of amenability is not itself a recorded access right.

Requested District action: Confirm that the final access easement and permit conditions expressly protect perpetual District access to every monitoring station, well, data-collection location, and necessary access route, without dependence on discretionary future permission.

15. Require documented well abandonment and infrastructure disposition

The applicants identify two wells serving an existing golf-course restroom and state that the wells will be abandoned when the restroom is decommissioned. See response at page 9. The cost estimate does not visibly identify well-abandonment or restroom-decommissioning costs.

Requested District action: Require a plan, schedule, responsible professional, applicable permits, documentation standard, and funded cost for well abandonment and removal or lawful disposition of the restroom and other obsolete golf-course infrastructure.

16. Reconcile the no-earthwork claim and require comprehensive soil and contamination safeguards

The applicants state categorically in the Mitigation Work Plan that "There is no earthwork associated with this project." The proposed credit-release narrative repeats that assertion and uses it to conclude that as-built engineering drawings are not required. The remainder of the package, however, describes activities that may disturb soil, sediment, roots, ditch banks, pond margins, or underlying material, including mechanical planting, manual planting, herbaceous seeding, tree and shrub thinning, exotic-tree and shrub removal, ditch restoration, fencing and gate installation, sign installation, monitoring equipment, vehicle and equipment access, restroom decommissioning, well abandonment, debris removal, and potential utility or drainage work. The cost table also contains a line labeled "Subtotal Cost - Earthwork - Year 0," even though the narrative says there will be no earthwork.

The District should not accept an undefined use of the word "earthwork" that excludes soil disturbance merely because the applicants do not presently propose mass grading or excavation. Driving equipment across potentially contaminated soil, pulling or grinding roots, digging planting holes, installing posts, abandoning wells, restoring a ditch, working along pond margins, creating ruts, dewatering, stockpiling soil, or repairing utilities can disturb and redistribute soil or sediment and can create dust, runoff, worker exposure, and off-site transport.

A. Require a complete disturbance and equipment-access plan

Requested District action: Require the applicants to identify on a signed and sealed survey every location where any of the following may occur:

1. Excavation, grading, filling, trenching, scraping, scarifying, ripping, augering, drilling, root removal, stump grinding, ditch work, bank stabilization, dewatering, or sediment removal;
2. Manual or mechanical planting and seeding that penetrates, turns, mixes, or exposes soil or sediment;
3. Tree and shrub removal, including the treatment and disposition of roots, stumps, and resulting voids;
4. Fence, gate, sign, monitoring-well, staff-gauge, camera, or other equipment installation;
5. Well abandonment, restroom decommissioning, structure removal, pipe abandonment, or utility and drainage repair;
6. Heavy-equipment, truck, all-terrain-vehicle, or contractor access, staging, turning, parking, refueling, loading, washing, or decontamination;
7. Temporary or permanent stockpiling, reuse, relocation, spreading, treatment, or off-site disposal of soil, sediment, vegetation, debris, or investigation-derived waste; and
8. Work within or adjacent to wetlands, ponds, ditches, Brooker Creek, the FEMA regulatory floodway, neighboring homes, or stormwater conveyances.

For every activity, the plan should state the anticipated depth, area, volume, equipment, access route, ground pressure, season, erosion and sediment controls, decontamination procedure, restoration standard, inspection method, and as-built documentation. If the applicants continue to assert that an activity is not earthwork, they should explain the technical definition being used and why the activity creates no soil, sediment, hydrologic, contaminant, floodway, or off-site risk.

B. Resolve the pending arsenical-herbicide investigation before disturbance or credit release

I understand that an agency investigation remains pending concerning the alleged use of Target 6 Plus or a related arsenical herbicide at the golf course. This letter does not represent that the investigation has reached a conclusion or that a violation has already been established. The application record should nevertheless address the issue before activities disturb or redistribute soil.

The U.S. Environmental Protection Agency identifies Target 6 Plus, EPA Registration No. 42519-3, as containing 48.3 percent monosodium acid methanearsonate, or MSMA. The EPA-approved 2019 label states that the product contains total arsenic, expressed as elemental arsenic, at 22.30 percent. See EPA's [Target 6 Plus registration record](#) and [May 16, 2019 product label](#). EPA currently describes MSMA as an organic arsenical herbicide and states that its use in Florida is limited to cotton in specified counties. See EPA's [MSMA regulatory summary](#). Whether any particular historical application was lawful depends upon the product, label, date, location, applicator, method, and other facts and should be determined by the responsible agencies rather than assumed in this letter.

Requested District action: Require, before authorizing soil disturbance or releasing credits:

1. Disclosure of the investigating agency or agencies, case or complaint number if public, current status, and final findings when available;
2. Preservation and production of available pesticide-purchase, inventory, application, storage, spill, disposal, contractor, applicator-license, and golf-course maintenance records;
3. Identification of the products, active ingredients, application dates, rates, methods, locations, and responsible applicators to the extent records exist;
4. A map of greens, tees, fairways, roughs, practice areas, mixing and loading areas, maintenance buildings, chemical-storage areas, equipment-wash areas, drainage routes, outfalls, ponds, ditches, disposal areas, spill locations, fill areas, and former structures;
5. Written coordination with the investigating agency, FDEP, the Florida Department of Agriculture and Consumer Services, Pinellas County, and other authorities having jurisdiction, as applicable; and
6. A permit condition allowing the District to suspend work and credit releases, require additional investigation, draw on financial assurance, and order remediation if the investigation or sampling identifies a material risk.

C. Require an independent Phase I and comprehensive Phase II environmental investigation

Decades of golf-course operation and chemical use create a reasonable need for site-specific investigation before soil is disturbed; they do not, standing alone, prove that every portion of the property is contaminated. The correct response is comprehensive, independent testing based on historical use and proposed disturbance—not assumption in either direction.

Requested District action: Require an environmental site assessment and sampling program prepared and implemented by appropriately licensed and qualified professionals who are independent of the applicants' routine landscape or pesticide contractors. At minimum, require:

1. A current Phase I Environmental Site Assessment addressing the complete 172.46 acres and adjoining conditions capable of affecting the bank;
2. A Phase II work plan reviewed by the District and appropriate contamination authorities before sampling;

3. A systematic sampling grid across every proposed disturbance, equipment-travel, staging, access, planting, thinning, ditch, pond-margin, fence, gate, sign, monitoring, well-abandonment, structure-removal, and utility-work area;
4. Denser judgmental sampling at greens, tees, fairways, maintenance and chemical-storage areas, mixing and loading areas, wash pads, former fuel or pesticide facilities, drainage swales, outfalls, sediment-accumulation areas, ponds, ditches, known or suspected spill areas, and other historical-use hot spots;
5. Appropriate background or reference samples and samples from multiple depth intervals based on anticipated disturbance depth and contaminant migration;
6. Soil, sediment, surface-water, and groundwater sampling wherever the conceptual site model indicates a potential pathway;
7. Analysis for total arsenic and, where necessary to assess risk or mobility, arsenic speciation, together with an analyte list based on historical records and professional judgment that considers other metals, pesticides, herbicides, fungicides, insecticides, petroleum constituents, nutrients, and relevant degradation products;
8. Laboratory analysis by properly accredited laboratories using appropriate methods, detection limits, chain of custody, field blanks, duplicates, matrix spikes, equipment blanks, data validation, and complete laboratory reports;
9. Comparison with applicable residential and commercial/industrial direct-exposure criteria, leachability criteria, groundwater and surface-water standards, sediment considerations, ecological screening values, and disposal-facility acceptance criteria;
10. A three-dimensional delineation of each detected contaminant exceeding an applicable standard or risk threshold, including lateral and vertical extent and estimated volume; and
11. Public filing of the work plan, validated analytical results, boring and sampling logs, maps, quality-assurance review, professional conclusions, and agency correspondence, subject only to lawful redaction of genuinely protected information.

Sampling should occur before vehicles or equipment travel across, rut, compact, or disturb the identified work areas. Initial grid spacing, depth, and analytes should be justified by a qualified professional and approved by the reviewing agencies; the permit should require step-out and deeper sampling until any exceedance is adequately delineated. No untested soil or sediment from a proposed disturbance area should be presumed clean or moved elsewhere on the property.

D. Require planting-location soil testing and a survey-grade planting feasibility plan

The success and credit calculations depend heavily upon installing and sustaining large numbers of trees, shrubs, and herbaceous plants. Contaminated or otherwise unsuitable soil can impair germination, root development, plant survival, ecological recruitment, and worker safety, depending upon the contaminant, concentration, chemical form, plant species, soil chemistry, hydrology, and exposure pathway. A general property-wide average or a small number of widely spaced samples would not establish that the actual planting locations are suitable.

The documents also do not provide a survey-grade landscape installation plan showing the exact available planting footprint and how the proposed quantities can physically be installed without conflict. The RAI materials refer to approximately 75 slash pine trees per acre across 105.13 acres in the work plan, 30 shrubs per acre in that area, approximately 150 wetland trees per acre within portions of the 35.14-acre altered forested-wetland area, approximately 100 trees per acre in the 0.73-acre ditch area, and approximately

4,840 herbaceous plants per acre across 10.92 acres of proposed freshwater marsh. These figures represent many thousands of individual installations. The District should not assume that multiplying gross acreage by a target density proves that adequate, uncontaminated, accessible, hydrologically suitable planting space exists.

Requested District action: Require a signed and sealed planting feasibility survey and landscape installation plan that shows:

1. The exact boundary and surveyed acreage of every planting zone;
2. Existing trees, canopy drip lines, root-protection areas, shrubs, wetlands, ponds, ditches, open water, saturated areas, steep or unstable banks, and areas too deep for rooted vegetation;
3. FEMA floodway and floodplain boundaries, flood-conveyance constraints, and required no-disturbance areas;
4. Utilities, pipes, sewer and drainage facilities, reclaimed-water infrastructure, easements, wells, structures, cart paths, maintenance trails, fences, gates, monitoring stations, access routes, staging areas, and title-exception areas;
5. Required setbacks and clearance from utilities, property lines, homes, roads, structures, water bodies, drainage features, monitoring equipment, access routes, and existing protected vegetation;
6. The proposed location of each tree and shrub, identified by coordinates or a reproducible survey grid;
7. Planting bands, rows, cells, or other precise installation limits for herbaceous plugs and seed, with spacing, quantities, and calculations;
8. Species, stock type, container size, installation method, spacing, density, expected mature canopy and root spread, hydrologic tolerance, and soil requirements;
9. Existing canopy and proposed mature-canopy overlap, including whether target density can be achieved without overcrowding, excessive competition, obstruction of access, or conflict with flood conveyance;
10. The actual plantable acreage remaining after every exclusion and constraint is deducted from gross acreage;
11. A polygon-by-polygon reconciliation of planned quantities to the cost estimate, work plan, success criteria, and requested credits; and
12. Certification by the responsible landscape architect, ecologist, forester, engineer, and surveyor, as applicable, that the specified quantities can be installed and are reasonably capable of surviving at the mapped locations.

The plan should not treat the complete gross acreage of an assessment area as plantable. Open water, existing mature vegetation, root zones, utilities, easements, access corridors, floodway constraints, contaminated areas, unsuitable elevations, and other conflicts should be removed from the available planting calculation before density and cost are determined.

Requested District action regarding testing frequency: Require soil and, where appropriate, sediment testing tied directly to the planting layout as follows:

1. Each proposed tree and shrub planting point should be tested individually or represented by an agency-approved sampling grid no coarser than the proposed spacing between those plants;
2. Sampling locations should be survey-located and linked by identification number to the corresponding planting point or planting cell;

3. Samples should be collected through the complete anticipated root-zone and disturbance depth, with deeper sampling where contamination or migration is indicated;
4. Dense herbaceous plug or seeding areas should be sampled using an agency-approved grid no larger than the planting interval or smallest practical planting cell; compositing should be allowed only where the reviewing agencies determine that it will not conceal isolated contamination or dilute a hotspot below an action level;
5. No compositing should be allowed across distinct historical-use areas, drainage pathways, soil types, elevations, wetland classes, suspected hot spots, or visibly different conditions;
6. Every suspected mixing, loading, storage, spill, wash, outfall, ditch, sediment-accumulation, maintenance, or chemical-use hot spot should receive discrete samples regardless of the general grid;
7. Testing should address contaminant concentrations and plant-growth suitability, including total arsenic and other identified contaminants, pH, salinity or electrical conductivity, nutrients, organic matter, compaction, drainage, moisture regime, and other parameters selected by qualified professionals;
8. Species-specific phytotoxicity, bioavailability, leachability, or greenhouse/growth testing should be required where ordinary chemical comparison does not establish whether the selected plants can survive and function;
9. Results should be placed on the planting plan so that the District can see the analytical result associated with each planting point or cell; and
10. Failed, contaminated, or unsuitable locations should be remediated and retested or removed from the plantable acreage, with corresponding revisions to plant quantities, costs, success criteria, and credits.

The permit should prohibit planting in an untested or failed location. Passing a human-health screening criterion should not automatically be treated as proof of plant-growth suitability, and plant survival alone should not be used to demonstrate that contaminated soil is environmentally acceptable. The applicants should demonstrate both regulatory compliance and ecological suitability.

Before approving the planting plan or related credits, the District should independently audit the arithmetic. At minimum, it should reconcile the work plan's approximately 75 slash pines per acre across 105.13 acres—approximately 7,885 trees—with the cost estimate's 4,205 pine trees, which reflects approximately 40 trees per acre. The same reconciliation should be performed for shrubs, wetland trees, ditch plantings, and approximately 52,853 proposed pond/marsh herbaceous plants. If exclusions or contamination leave insufficient plantable acreage, the applicants should revise the design and credit request rather than increase density beyond ecologically supportable spacing.

The cost estimate alone identifies at least 60,212 discrete plant installations: 4,205 slash pines, 3,154 shrubs, and 52,853 pond/marsh herbaceous plants, in addition to 631 pounds of broadcast herbaceous seed. If the work plan's conflicting rate of approximately 75 slash pines per acre controls, the pine quantity would be approximately 7,885 and the corresponding discrete-plant total would increase to approximately 63,892 before adding any separate wetland-tree or ditch-tree installations not included in that arithmetic. The plans identify the pine and shrub stock as one-gallon material, but the public materials reviewed do not adequately specify the stock type, container or root-ball dimensions, installation-hole dimensions, excavation method, or soil-displacement volume for the approximately 52,853 pond/marsh plants or for every other planting category.

For screening purposes only, applying an illustrative one-cubic-foot disturbed-volume assumption to the cost estimate's 60,212 discrete plantings produces approximately 60,212 cubic feet, or 2,230 cubic yards, of soil and belowground material penetrated, loosened, displaced, mixed, or otherwise affected. Applying the same assumption to the approximately 63,892-installation scenario produces approximately 63,892 cubic feet, or 2,366 cubic yards. Those volumes equal approximately 1.38 to 1.47 acre-feet—enough material to cover approximately 1.38 to 1.47 acres one foot deep, 2.76 to 2.93 acres six inches deep, or 5.53 to 5.87 acres three inches deep. One cubic foot per installation is an illustrative screening assumption, not a demonstrated minimum for every species: an herbaceous plug may disturb less, while a mechanically installed one-gallon tree, larger substituted stock, augered hole, root-ball preparation, or remediation excavation may disturb more. That uncertainty is precisely why the applicants, rather than the public or the District, should provide a sealed, itemized earth-disturbance takeoff based on the actual planting stock and methods.

Requested District action regarding planting excavation and displaced material: Require the applicants to identify for every planting category the exact number, species, stock type, container size, root-ball dimensions, planting-hole diameter and depth, installation method, equipment, anticipated over-excavation, backfill or amendment volume, and expected mortality-replacement work. Require a signed and sealed calculation of total penetrated, excavated, loosened, mixed, displaced, imported, reused, stockpiled, and exported soil or biomass in cubic feet and cubic yards. The plan must state where every category of displaced material will go; whether it will be returned to the hole, spread, mounded, stockpiled, treated, or removed; and how volume will be reconciled through as-built records. It must prohibit unapproved spreading or mounding that raises grades, fills depressions, reduces flood storage, obstructs the FEMA floodway, redirects drainage, buries existing vegetation, changes wetland hydroperiods, or mixes contaminated soil into clean soil or deeper horizons. Any proposed on-site redistribution should be shown with pre-work and post-work elevations and supported by appropriate hydrologic and hydraulic analysis.

E. Protect and measure belowground biomass, root systems, the rhizosphere, and soil biological communities

The applicants' focus on visible vegetation does not adequately address the living ecological system below the soil surface. Belowground biomass includes living roots and other subsurface plant material, while the rhizosphere is the biologically active soil immediately influenced by roots. These systems interact with mycorrhizal fungi, bacteria, other microorganisms, soil fauna, organic matter, pore structure, and hydrology to support nutrient cycling, soil aggregation, infiltration, water storage, carbon storage, plant establishment, and resilience. A site can appear successfully planted above ground while suffering substantial belowground damage that prevents durable ecological function.

Mechanical planting, augering, root or stump removal, thinning, ditch work, fence and sign posts, monitoring wells, vehicle traffic, staging, contaminated-soil removal, utility work, and repeated mowing or maintenance can sever roots, compact soil, collapse pore space, alter soil horizons, disrupt fungal and microbial networks, redistribute contaminated surface material into deeper layers, and change oxygen, moisture, and nutrient conditions. These effects should not be excluded merely because the applicants characterize the work as involving no earthwork.

The number and spatial distribution of planting penetrations also matter independently of the gross volume. Tens of thousands of holes or mechanically opened planting points could create a widespread, pegboard-like pattern through existing root mats, soil horizons, microbial and mycorrhizal networks, contaminated or chemically affected surface layers, and preferential water-flow pathways. Even where each individual opening is small, the cumulative pattern could fragment belowground habitat, sever interconnected roots and fungal hyphae, compact the travel corridors between holes, accelerate vertical or

lateral contaminant movement, alter infiltration and aeration, and create pathways connecting contaminated surface soil with deeper soil or groundwater. The District should therefore evaluate cumulative penetration density, spacing, disturbed surface area, disturbed volume, travel impacts, and three-dimensional connectivity rather than reviewing each planting hole as an isolated and negligible event.

Existing research does not establish the site-specific magnitude of those effects at Brooker Creek without field data, but it demonstrates that the mechanisms are real and measurable. A USDA Forest Service study found that moderate and severe soil compaction reduced nonmycorrhizal root-tip abundance and that severe compaction reduced ectomycorrhizal abundance or diversity in studied conifer seedlings. See Amaranthus et al., *Soil Compaction and Organic Matter Affect Conifer Seedling Nonmycorrhizal and Ectomycorrhizal Root Tip Abundance and Diversity*, USDA Forest Service Research Paper PNW-RP-494 (1996), [USDA record](#). A meta-analysis reported that reducing soil disturbance through less-intensive tillage was associated with enhanced indigenous arbuscular-mycorrhizal root colonization and changes in fungal-community structure. See Bowles et al., *Ecological Intensification and Arbuscular Mycorrhizas: A Meta-Analysis of Tillage and Cover Crop Effects*, *Journal of Applied Ecology* 54 (2017), DOI [10.1111/1365-2664.12815](#).

USDA Natural Resources Conservation Service guidance explains that compaction reduces pore space used for air, water, roots, soil fauna, and microbial habitat; can restrict infiltration and root penetration; and can increase runoff, erosion, and water-quality problems. See USDA NRCS, *Understanding Soil Risks and Hazards*, compaction chapter, [USDA publication](#), and USDA NRCS, *Soil Biology and Land Management*, [USDA publication](#). Experimental and field research also shows that continuous or natural macropores can produce preferential solute or colloid transport. See Li and Ghodrati, *Preferential Transport of Solute Through Soil Columns Containing Constructed Macropores*, *Soil Science Society of America Journal* 61 (1997), DOI [10.2136/sssaj1997.03615995006100050004x](#), and Allaire et al., *Influence of Macroporosity on Preferential Solute and Colloid Transport in Unsaturated Field Soils*, *Journal of Contaminant Hydrology* 107 (2009), DOI [10.1016/j.jconhyd.2009.03.004](#). These authorities do not prove that every planting hole will become a contaminant conduit; they support requiring the applicants to investigate whether the proposed cumulative penetration pattern, soil conditions, hydrology, and contamination profile create that risk here.

Requested District action: Require a qualified, independent baseline assessment and protection plan that:

1. Maps existing root systems and critical root zones, soil horizons, representative belowground biomass, and areas of high biological or hydrologic sensitivity;
2. Measures, using scientifically appropriate methods and reference areas, soil compaction and bulk density, porosity, infiltration or hydraulic conductivity, organic matter, soil moisture, root density and depth, microbial biomass or activity, mycorrhizal colonization where relevant, and other indicators necessary to evaluate soil biological function;
3. Identifies equipment-exclusion zones, approved travel and staging routes, allowable ground pressure, seasonal restrictions, protective matting, and methods for avoiding rutting, compaction, root severance, and mixing of contaminated surface soil into deeper horizons;
4. Evaluates the belowground effects of every proposed disturbance activity, including ditch restoration, planting, thinning, exotic removal, fencing, monitoring installation, well abandonment, remediation, and long-term maintenance, and maps the cumulative number, density, spacing, dimensions, disturbed volume, disturbed surface area, and three-dimensional pattern of all planting holes and mechanical penetrations;
5. Establishes objective, enforceable thresholds for unacceptable compaction, root loss, soil-horizon disruption, reduced infiltration, microbial or mycorrhizal impairment, erosion, or other loss of belowground function;

6. Requires pre-work and post-work sampling at fixed, survey-located stations and appropriate reference plots, followed by monitoring long enough to demonstrate recovery rather than short-term appearance;
7. Requires immediate stop-work, delineation, corrective action, and independent verification when a threshold is exceeded;
8. Specifies ecologically and hydrologically appropriate restoration methods, which may include removal of contaminated material, careful decompaction, restoration of soil horizons, clean and tested amendments, erosion repair, or other professionally justified measures, without causing additional wetland or floodway harm;
9. Links failure of belowground-function standards to withholding, reduction, suspension, or recovery of credits and to continued monitoring until the standards are achieved; and
10. Includes certified cost estimates and dedicated financial assurance for assessment, protection, monitoring, corrective work, replacement planting, and long-term recovery.

Aboveground plant survival should not be accepted as a substitute for proof that the supporting belowground ecological system remains intact or has recovered. The permit should require measurable belowground success criteria wherever credits depend upon restoration, enhancement, or long-term vegetative establishment.

F. Require an enforceable contaminated-media management and worker/community protection plan

If testing identifies contaminated soil, sediment, groundwater, vegetation, debris, or investigation-derived waste, the applicants should be prohibited from diluting contamination, blending it with clean material to avoid disposal requirements, spreading it into wetlands or uplands, moving it into a non-credit polygon, or leaving it where future erosion or flooding could redistribute it.

Requested District action: Require a plan addressing:

1. Stop-work and notification thresholds;
2. Worker health and safety, training, personal protective equipment, exposure monitoring, hygiene, and emergency response;
3. Dust suppression and perimeter air monitoring, including action levels and work stoppage;
4. Stormwater, erosion, sediment, and dewatering controls that prevent migration into Brooker Creek, wetlands, ponds, storm drains, streets, homes, and the FEMA floodway;
5. Segregation of clean and contaminated material;
6. Covered and lined staging areas, stockpile limits, inspection, security, and maximum storage time;
7. Equipment and truck decontamination, management of wash water, and prevention of track-out onto neighborhood roads;
8. Confirmation sampling for excavations and disturbed areas;
9. Clean imported-material specifications, source documentation, and testing;
10. Procedures for unexpected contamination, buried containers, staining, odors, dead vegetation, or abandoned infrastructure;
11. Resident and agency notification following a release, track-out event, dust exceedance, spill, or off-site migration; and
12. Long-term monitoring and institutional or engineering controls if contamination remains in place.

The plan should be incorporated into the permit and financial-assurance documents. It should not be deferred until after contamination is encountered.

G. Require lawful characterization, transportation, treatment, and disposal

Contaminated soil is not automatically classified as a federal hazardous material or hazardous waste merely because arsenic or another chemical is detected. Classification depends on representative analytical results and applicable federal, state, local, transporter, and receiving-facility requirements. The applicants should therefore be required to perform formal waste characterization before any off-site shipment and comply with every requirement triggered by that characterization.

FDEP guidance calls for proper disposal of contaminated media and documentation of final disposition, and Florida hazardous-waste rules incorporate manifest requirements for regulated hazardous-waste shipments. See FDEP's [Disposal of Contaminated Media and Investigation-Derived Waste guidance](#), [hazardous-waste regulatory summary](#), and [hazardous-waste transporter requirements](#). U.S. Department of Transportation Hazardous Materials Regulations may impose classification, packaging, shipping-paper, marking, labeling, placarding, training, registration, and transportation requirements when the characterized material meets applicable criteria.

Requested District action: Require:

1. Representative waste-profile sampling and written classification of every soil, sediment, water, vegetation, debris, container, and other waste stream;
2. Identification of all applicable EPA, FDEP, DOT/PHMSA, Florida Department of Transportation, county, municipal, landfill, treatment-facility, and transporter requirements;
3. All required generator identification numbers, transporter registrations, permits, approvals, waste profiles, manifests, shipping papers, land-disposal records, and receiving-facility authorizations;
4. Use of appropriately registered, insured, trained, and qualified transporters and permitted treatment, storage, recycling, or disposal facilities authorized to accept the characterized material;
5. Covered and secure loads, compatible containers, required markings and placards, spill-response capability, vehicle inspection, decontamination, and emergency contacts;
6. A transportation plan identifying haul routes, hours, truck quantities, load limits, neighborhood protections, staging, accident response, and procedures preventing dust, leakage, track-out, and contaminated runoff;
7. Legible manifests, scale tickets, bills of lading, certificates of treatment or disposal, receiving-facility receipts, rejected-load records, and final reconciliation of excavated and disposed volumes;
8. A prohibition on off-site shipment until the waste classification and receiving facility are approved by the authorities having jurisdiction; and
9. District verification of final disposition before affected restoration work or credit-release milestones are accepted.

The applicants should not merely be directed to obtain a generic "DOT permit." They should identify and satisfy every specific transportation approval, registration, hazardous-material requirement, waste-manifest obligation, and facility-acceptance condition that applies after the material is tested and legally classified.

H. Require certified, scenario-based remediation and disposal cost estimates

The present financial materials do not appear to fund comprehensive contamination investigation, delineation, remediation, hazardous-material management, transportation, disposal, confirmation

sampling, community protection, or long-term monitoring. Those costs could be substantial and should not be shifted to residents, the District, or a future property owner after credits have been released.

Requested District action: Require a detailed cost estimate certified by appropriately licensed professionals and based on current third-party contractor and facility pricing. The estimate should separately quantify:

1. Phase I and Phase II investigation, survey, drilling, sampling, laboratory analysis, validation, reporting, and agency coordination;
2. Delineation and repeated step-out sampling;
3. Mobilization, excavation, shoring, dewatering, segregation, loading, stockpiling, liners, covers, security, and stormwater controls;
4. Worker protection, dust control, perimeter air monitoring, traffic control, neighborhood-road cleaning, and equipment decontamination;
5. Transportation under applicable hazardous and nonhazardous classifications, including fuel, insurance, registration, documentation, spill response, and reasonable haul distances;
6. Treatment, stabilization, recycling where lawful, landfill tipping fees, disposal taxes and surcharges, rejected loads, and facility-required supplemental testing;
7. Disposal and treatment of contaminated water, sediment, vegetation, personal protective equipment, liners, wash water, and other secondary waste;
8. Imported clean fill, restoration, regrading, planting, erosion control, confirmation testing, monitoring, and replacement of failed restoration;
9. Professional oversight, permit fees, legal compliance, recordkeeping, and final certification;
10. Contingencies for substantially greater contamination volume, hazardous-waste classification, deeper impacts, inaccessible wet areas, floodway restrictions, extreme weather, facility refusal, fuel escalation, and changes in disposal criteria; and
11. Long-term monitoring, operation and maintenance, institutional controls, and future corrective action where contamination remains.

The estimate should also fund the required planting-point or planting-cell sampling density, survey location of every sample and planting point, plant-growth suitability testing, planting-feasibility design, independent review, retesting after remediation, and redesign or replacement planting where locations fail. It should include low, expected, and reasonably foreseeable worst-case scenarios; disclose assumed contaminated volumes, densities, haul distances, waste classifications, unit prices, facilities, inflation, and contingencies; and be updated after sampling. The District should require a dedicated, irrevocable financial-assurance amount sufficient for the approved scenario and should increase it automatically if investigation reveals a larger liability. No credit should be released based on work in a potentially affected area until the required testing is complete, the remedy is approved and funded, and any necessary cleanup is verified.

I. Require as-built and completion certification despite the no-earthwork label

The applicants' proposal to dispense with as-built engineering drawings because they characterize the project as involving no earthwork is not adequate. The District should require surveyed and professionally certified completion documentation for every ditch, planting, removal, access, fence, gate, monitoring, well-abandonment, soil-management, and remediation activity that changes or penetrates the ground.

Requested District action: Require pre-work and post-work topography where relevant; surveyed limits and depths of disturbance; soil and waste volume reconciliation; confirmation-sampling results; disposal

documentation; photographs; contractor certifications; professional as-built certification; and a District inspection before treating the work as complete or releasing associated credits.

17. Treat the repeated permitting history and unresolved deficiencies as a reasonable-assurance and project-delivery risk

The current application was filed on November 14, 2025. SWFWMD issued its Request for Additional Information on December 14, 2025. After a partial response and multiple applicant requests for additional time, the applicants filed the present response on August 26, 2026—more than nine months after the current application was filed and approximately eight and one-half months after the RAI. The filing still contains or leaves unresolved the discrepancies, incomplete instruments, undefined field details, conflicting planting quantities, financial-assurance questions, disturbance issues, and other matters identified in this letter.

This history does not stand alone. The official permit history reflects an earlier related mitigation-bank application, Application 889588 / ERP 47575.000, filed March 1, 2024. That application proceeded through an RAI, applicant responses, clarification, and extension activity before the applicant requested withdrawal on December 6, 2024 and SWFWMD acknowledged the withdrawal on December 11, 2024. The current Application 930235 / ERP 47575.002 followed on November 14, 2025. Measured from the first filing through the August 26, 2026 response, the related permitting effort spans approximately two years and six months and includes a withdrawn application, a second application, repeated extension requests, and a response that still requires substantial reconciliation.

I do not contend that elapsed time, a withdrawal, a request for an extension, or a disputed technical judgment independently proves that an applicant or consultant is incapable of performing a project. Those events can have legitimate explanations. Taken together with the unresolved contents of the present response, however, they raise a reasonable and material question about project governance, document control, interdisciplinary coordination, schedule management, cost forecasting, legal-instrument completion, quality assurance, and the ability to carry a complex mitigation bank from permitting through construction, monitoring, corrective action, final success, and perpetual management.

The practical concern is straightforward: if the applicant team has required two related applications and approximately two and one-half years yet still has not produced a complete, internally consistent, readily verifiable permit record, the District should not simply assume that the same team will flawlessly coordinate tens of thousands of plant installations, contamination controls, hydrologic protection, title obligations, monitoring, reporting, adaptive management, corrective work, credit accounting, and perpetual stewardship after credits begin to be released or sold. The permitting record is relevant to reasonable assurance because permitting is the phase in which the applicant must demonstrate that it understands the project, has reconciled its plans, can satisfy agency requirements, and has the organizational and financial capacity to perform.

Requested District action: Require the applicants to submit a documented project-delivery and quality-assurance plan identifying the legally responsible entity; qualified project executive; mitigation-bank manager; engineer; ecologist; soil and contamination professionals; surveyor; landscape professional; contractors; independent reviewers; record custodian; and perpetual-management successor. The plan should include defined authority, responsibilities, communication and escalation procedures, document-control protocols, schedule and milestone controls, procurement and contractor qualifications, inspection and testing hold points, nonconformance procedures, corrective-action deadlines, contingency staffing, replacement-manager provisions, and auditable reporting to the District.

Before any credit release, require the District to determine affirmatively—on record and supported by the completed instruments, corrected plans, verified field information, professional qualifications, binding contracts or commitments, and fully funded financial assurance—that the applicant has provided reasonable assurance of both technical performance and organizational capacity. If the applicant or a critical consultant, contractor, manager, owner, or financial provider defaults, withdraws, becomes insolvent, is replaced, or fails to meet a milestone, the permit should authorize immediate District intervention, draw upon dedicated funds, suspension of credit release, appointment of a qualified replacement, and completion or restoration without reliance on the defaulting party's continued cooperation.

Requested disposition

For the foregoing reasons, I respectfully request that SWFWMD:

1. Not treat the August 26 filing as resolving the RAI until District technical and legal staff have reviewed each response and attachment;
2. Issue a follow-up RAI or deficiency letter addressing the matters above;
3. Require corrected, internally consistent, and professionally certified documents;
4. Conduct or complete field verification of UMAM scores, wetland conditions, site security, monitoring facilities, and proposed restoration areas;
5. Obtain current FWC review and adequate wildlife information;
6. Require conclusive recorded ownership and title documentation;
7. Require measurable hydrologic and ecological success criteria;
8. Reevaluate the quantity, classification, and release schedule for the proposed credits;
9. Confirm that the recorded conservation easement survives permit surrender, abandonment, default, transfer, and dissolution and prevents incompatible development across every protected acre;
10. Require a written default and abandonment response plan addressing enforcement, completion funding, restoration, and treatment of released or sold credits;
11. Require a comprehensive adverse-outcome and remedy matrix assigning a prevention measure, trigger, responsible party, deadline, corrective action, completion standard, cost, dedicated funding source, credit consequence, and enforcement remedy to every reasonably foreseeable failure mode;
12. Require, before any credit release, a fully funded and irrevocable District-approved trust, escrow, performance bond, irrevocable letter of credit with standby trust, or stronger authorized combination sufficient to finance management and corrective work in perpetuity;
13. Require periodic adjustment, replenishment, successor continuity, agency draw rights, and protection against cancellation, insolvency, inflation, underperformance, and exhaustion of perpetual-management funds;
14. Require a complete survey and title reconciliation covering Parcels 1, 2, and 3 and explaining the client's removal of Parcel 2;
15. Require a corrected, signed and sealed legal description, closure report, and confirmation that all controlling legal descriptions are consistent;

16. Require a signed and sealed composite overlay of every title exception, infrastructure feature, credit area, assessment area, non-credit polygon, restoration area, access route, monitoring location, and conservation-easement boundary, with intersection acreages supplied in PDF and GIS or CAD form;
17. Resolve every blanket, non-protractible, retained, and unrecorded interest through legal analysis and recorded instruments rather than relying upon narrative assurances or placement in a non-credit polygon;
18. Require the recorded Item 22 release or termination, the recorded Item 29 notice or waiver, written reconciliation of Items 13, 27, 32, 35, and 36, and verified recording of the final Item 37 conservation easement as a condition precedent to the first credit release;
19. Require an updated title commitment and final title policy issued after recordation of the conservation easement and all corrective instruments;
20. Require an enforceable, fully funded infrastructure-entry, ecological-restoration, and credit-accounting protocol;
21. Require a current, District-verified wetland and other-surface-water delineation tied to survey coordinates and exact acreages;
22. Require a polygon-level acreage and credit ledger that reconciles the entire 172.46 acres and prevents duplicate credit;
23. Limit credit on existing wetlands, ponds, ditches, uplands, and preservation areas to verified additional functional gain after existing baseline function, risk, time lag, and existing development constraints are properly accounted for;
24. Require a signed and sealed overlay of the effective FEMA regulatory floodway, floodplain, base-flood information, cross sections, map revisions, every assessment area, and every credit polygon;
25. Exclude any floodway acreage from credit unless the applicants prove both additional ecological functional gain beyond existing function and protection and no adverse hydraulic or off-site effect;
26. Require applicable floodplain approvals, appropriate hydraulic analysis, construction controls, as-built certification, monitoring, corrective obligations, and dedicated funding before permitting any activity in or affecting the regulatory floodway;
27. Confirm that SWFWMD may legally rely upon the final survey and title documents;
28. Require the applicants to reconcile the categorical no-earthwork assertion with all proposed ditch, planting, thinning, removal, access, fencing, monitoring, well-abandonment, utility, and other ground-disturbing activities and with the cost-table line labeled as an earthwork subtotal;
29. Require a signed and sealed disturbance and equipment-access plan showing every area where soil or sediment may be penetrated, compressed, rutted, excavated, mixed, relocated, stockpiled, or transported;
30. Require disclosure and resolution of the pending investigation concerning alleged Target 6 Plus or other arsenical-herbicide use without presuming its outcome;
31. Require independent Phase I and comprehensive Phase II environmental investigation of all 172.46 acres, with systematic and targeted testing before equipment access or disturbance;
32. Require complete delineation of arsenic and any other identified contaminants in soil, sediment, surface water, and groundwater, as appropriate;
33. Require an enforceable contaminated-media, worker-safety, dust, stormwater, decontamination, community-protection, and unexpected-discovery plan;

34. Require formal waste characterization and compliance with every applicable federal, state, and local transportation, manifest, registration, permitting, treatment, and disposal requirement;
35. Require certified low, expected, and reasonably foreseeable worst-case investigation, remediation, transportation, disposal, restoration, monitoring, and contingency cost estimates;
36. Require a dedicated and irrevocable financial-assurance mechanism sufficient to pay those costs without recourse to residents or public funds;
37. Require surveyed as-built and professional completion documentation notwithstanding the applicants' no-earthwork characterization;
38. Require a signed and sealed planting feasibility survey and landscape installation plan identifying the exact location, species, spacing, quantity, constraints, and available plantable acreage for every proposed tree, shrub, herbaceous planting area, and seeded area;
39. Require soil and sediment testing tied to each tree and shrub planting point or to an agency-approved grid no coarser than the proposed planting spacing, with appropriately dense, non-dilutive testing of herbaceous planting cells and every historical-use hot spot;
40. Require a qualified, independent baseline assessment and protection plan for belowground biomass, existing roots and critical root zones, the rhizosphere, soil horizons, soil organisms, and mycorrhizal networks, including mapped protection and equipment-exclusion areas;
41. Require measurable belowground-function success criteria, fixed-station pre-work and post-work monitoring, stop-work and corrective-action thresholds, credit consequences for impairment, and dedicated financial assurance for restoration and long-term recovery;
42. Require a signed and sealed planting-disturbance takeoff stating the actual stock sizes, root-ball and planting-hole dimensions, installation methods, equipment, total soil and biomass penetrated or displaced, replacement-planting disturbance, and the destination and management of all excess material;
43. Prohibit unapproved spreading, mounding, stockpiling, or redistribution of displaced soil or biomass and require proof that planting and material management will not raise grades, reduce flood storage, obstruct the FEMA floodway, alter drainage or wetland hydroperiods, fragment belowground ecological systems, or move contamination into clean soil, deeper horizons, surface water, or groundwater;
44. Treat the two related applications, prior withdrawal, repeated extensions, elapsed permitting history, and unresolved present deficiencies as factors requiring an affirmative, documented determination of organizational capacity and reasonable assurance before any credit release;
45. Require an enforceable project-delivery, quality-assurance, document-control, staffing, succession, nonconformance, corrective-action, and replacement-manager plan backed by dedicated financial assurance and District intervention rights;
46. Withhold all credit release until every applicable prerequisite is actually satisfied; and
47. Place this letter and any attachments in the public file for Application 930235.

This request does not ask the District to adopt unsupported conclusions or prejudge the application. It asks the District to apply the governing criteria carefully, distinguish applicant assertions from verified facts, and require reasonable assurances before allowing a permanent mitigation bank and the sale of credits based on this neighborhood landscape.

The citizens of Florida have entrusted SWFWMD with the responsibility to evaluate permit applications carefully, independently, and transparently because an inadequately reviewed project may adversely affect

wetlands, flood protection, water quality, wildlife habitat, neighboring property, and other natural resources held in great public importance. That responsibility is especially consequential when mitigation credits may be released and used to authorize environmental impacts elsewhere before the proposed bank has achieved final ecological success.

This letter places the District on specific notice of the factual discrepancies, unresolved assumptions, foreseeable failure modes, title and access questions, floodway concerns, contamination risks, financial-assurance deficiencies, and monitoring needs identified above. Once these matters have been expressly presented, they should not later be characterized as risks that no one identified or reasonably anticipated. I respectfully request a substantive response showing how each material issue was investigated, resolved, incorporated into enforceable permit conditions, or supported by a reasoned determination that no additional requirement is necessary.

I recognize that disagreement with a commenter, an exercise of professional judgment, or an agency decision later challenged does not by itself establish misconduct or personal liability. At the same time, knowingly disregarding material information, failing to perform legally required review, acting without competent substantial support, or refusing to address a documented risk may subject an agency action—and, where the particular facts and applicable law warrant, the conduct involved—to administrative or judicial review, public-records scrutiny, inspector-general or ethics review, and other lawful oversight or remedies. I raise that point not as a personal threat to District staff, but to emphasize the need for a complete, documented, good-faith review capable of withstanding public and legal scrutiny.

Thank you for your consideration and for your continued review of this application. Please include me on notices of material agency action, additional-information requests, staff reports, completeness determinations, and intended agency action to the extent provided by applicable procedures.

Respectfully submitted,

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