

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ST. JOHNS RIVERKEEPER, INC.,
CITY OF JACKSONVILLE, and
ST. JOHNS COUNTY,

Petitioners,

Vs.

CASE NOS.: 08-1316
08-1317
08-1318

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT,

Respondent,

and

SEMINOLE COUNTY, and CITY OF COCOA,

Intervenors.

/

DEPOSITION OF: NEIL ARMINGEON

TAKEN: Pursuant to Notice by Counsel
for Respondent and Intervenors

DATE: July 28, 2008

TIME: 10:09 AM - 1:22 PM

PLACE: BLEDSOE, JACOBSON, SCHMIDT
& WRIGHT
1301 Riverplace Boulevard
Suite 1818
Jacksonville, Florida

BEFORE: PATRICIA TOMORY HALLIDAY
Professional Court Reporter
Notary Public, State of Florida

APPEARANCES:

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ALSO PRESENT:

Alan W. Aikens, P.G. (telephonically)
CH2M Hill, Inc.

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E X H I B I T S

COUNTY EXHIBIT NO. 1 (Seminole County's Amended Notice of Taking Deposition of St. John's Riverkeeper, Inc. Pursuant to Florida Rule of Civil Procedure 1.310(b)(6), Page 1 through 16, with the attached Technical Staff Report, Page 1 through 21, and its exhibits, Page 1 through 25)	6
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1 NEIL ARMINGEON,
2 the witness herein, after first being duly sworn on oath,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. de la PARTE:

6 Q. Go ahead and state your name for the record.

7 A. Neil Armingeon, A-R-M-I-N-G-E-O-N.

8 Q. Mr. Armingeon, have you ever had your deposition
9 taken before?

10 A. Yes.

11 Q. Let me just go over a couple of ground rules,
12 before we get started, with respect to deposition.

13 My name is Edward de la Parte. I'm the attorney
14 representing Seminole County, an Intervenor in this
15 proceeding and the permit applicant.

16 We've scheduled this deposition and we're going
17 to be -- I'm going to be asking you questions and you're
18 obligated to respond to those questions completely and
19 truthfully.

20 Your attorney may object, during the course of
21 the deposition, to the question. But unless he instructs
22 you not to answer, you're obligated, after he puts his
23 objection on the record, to go ahead and proceed to answer
24 the question.

25 If you have any questions at any time, as to

1 what I'm asking for or what information I'm seeking or if
2 you don't clearly understand the question, please ask either
3 the court reporter to repeat it or ask me to rephrase the
4 question. Okay?

5 A. Okay.

6 Q. Good. By whom are you employed, Mr. Armingeon?

7 A. St. Johns Riverkeeper.

8 Q. And what is your business address,

9 Mr. Armingeon?

10 A. 2800 University Boulevard, Jacksonville,
11 Florida, 32211.

12 Q. And what's your business telephone number?

13 A. (904) 256-7591.

14 Q. How long have you been employed by St. Johns
15 Riverkeeper?

16 A. Five years and four months, five months.

17 Q. Did you start working for them in, what, 2003?

18 A. February 2003.

19 Q. What position do you currently hold with the
20 St. Johns Riverkeeper?

21 A. My title is The Riverkeeper, St. Johns
22 Riverkeeper.

23 Q. And have you held that position for the entire
24 five years and four months that you've been employed by the
25 Riverkeeper?

1 A. Yes.

2 Q. What are your duties as The Riverkeeper for
3 St. Johns Riverkeeper?

4 A. Advocate for the river, work with citizens to
5 help them become educated about issues that impact the
6 river, respond to citizen complaints or calls for help,
7 attend meetings, participate in commissions, occasionally
8 patrol the river, respond to pollution events, educate
9 people about the river.

10 Q. Anything else?

11 A. I'd say that covers it, generally.

12 Q. Are you aware that you have been designated by
13 the St. Johns Riverkeeper to testify on its behalf regarding
14 certain matters identified in the Notice of Deposition?

15 A. Yes.

16 Q. And do you consent to testifying on the
17 St. Johns Riverkeeper's behalf regarding those items
18 identified in the Notice?

19 A. Yes.

20 MR. de la PARTE: Let's go ahead and have this
21 marked as County Exhibit No. 1.

22 (County Exhibit No. 1 so marked).

23 Q. (By Mr. de la Parte) The court reporter has
24 handed you a document we marked as County Exhibit No. 1.
25 Can you identify that, Mr. Armingeon?

1 A. It's a Notice of Deposition.

2 Q. Did you receive a copy of County Exhibit No. 1
3 prior to the court reporter just handing it to you?

4 A. Yes.

5 Q. Have you reviewed this document prior to just
6 now?

7 A. Yes.

8 Q. Let me ask you to turn to the items that are
9 listed on Pages 2 through 15 of this particular document.
10 Have you reviewed those items?

11 A. (Reviewing document) Yes.

12 Q. And are you prepared to testify on the St. Johns
13 Riverkeeper's behalf regarding those items?

14 A. Yes.

15 Q. All right. Let's look at item number 1 on
16 Page 2, which states, The allegations of St. Johns
17 Riverkeeper, Incorporated's Petition for Administrative
18 Hearing (the "Petition") and Riverkeeper's interrogatory
19 answers in this case (the "Interrogatory Answers").

20 MR. de la PARTE: Let's go ahead and mark the
21 petition for hearing as County Exhibit No. 2.

22 (County Exhibit No. 2 so marked).

23 Q. (By Mr. de la Parte) Okay. I think the court
24 reporter has nudged you just there with a document we've
25 marked as County Exhibit No. 2. Have you seen County

1 Exhibit No. 2 before, Mr. Armingeon?

2 A. (Reviewing document) Yes.

3 Q. Are you aware this is the Petition for
4 Administrative Hearing filed by the St. Johns Riverkeeper
5 challenging the proposed issuance of a Consumptive Use
6 Permit to Seminole County to withdraw water from the
7 St. Johns River?

8 A. Yes.

9 Q. Was the St. Johns Riverkeeper, Incorporated
10 aware that filing this petition for hearing would have the
11 effect of delaying the issuance of Seminole County's
12 Consumptive Use Permit?

13 MR. WRIGHT: Object to the form of the question.

14 A. (By the Deponent) I'm sorry. Would you repeat
15 that?

16 Q. Sure. When the St. Johns Riverkeeper,
17 Incorporated filed this petition for hearing, was it aware
18 that the filing of the petition would delay the issuance of
19 the permit?

20 A. Yes.

21 MR. WRIGHT: Object to the form of the question.

22 Give me some time before you answer.

23 Q. (By Mr. de la Parte) Was the St. Johns
24 Riverkeeper, Incorporated aware that filing this petition
25 would cause Seminole County to incur litigation costs in

1 defending this administrative action?

2 A. Would you repeat that, please?

3 MR. de la PARTE: That's yours.

4 (Pending question read back by court reporter).

5 A. (By the Deponent) No.

6 Q. And why is that the case?

7 A. I guess the simplest thing is I don't know what
8 Seminole County chooses to do. They're a separate entity
9 from us.

10 Q. Why did the St. Johns Riverkeeper, Incorporated
11 file the Petition for Administrative Hearing challenging
12 Seminole County's Consumptive Use Permit Application?

13 A. We had concerns that the permit, if issued,
14 could cause damage to the St. Johns River.

15 Q. And what specifically about the permit were you
16 concerned about would cause damage to the St. Johns River?

17 A. Well, I'm not an expert, but it would withdraw
18 water from the river south of here and that removal of water
19 from the river could cause harm to the river.

20 Q. Are you aware that the permit application filed
21 by Seminole County requests the withdrawal of approximately
22 2,000 million gallons per year or 5.5 million gallons a day
23 from the St. Johns River?

24 A. On an average, I think 5.5 million gallons per
25 day.

1 Q. And so the concern the St. Johns Riverkeeper,
2 Incorporated had was with respect to the withdrawal of this
3 5.5 million gallons a day, on average, from the river?

4 A. That, and that this was probably a step in a
5 chain of events that would lead to additional withdrawals.

6 Q. Let me make sure I'm clear on this. Setting
7 aside whether this application would or would not lead to
8 additional permits being issued, was the St. Johns
9 Riverkeeper, Incorporated concerned that the withdrawal of
10 5.5 million gallons a day, on average, would cause damage to
11 the river, as you indicated?

12 A. Yes.

13 Q. And what did the St. Johns Riverkeeper,
14 Incorporated hope to accomplish by filing this Petition for
15 Administrative Hearing challenging Seminole County's permit?

16 A. That the permit would be denied.

17 Q. Is there any quantity of water that the
18 St. Johns Riverkeeper, Incorporated believes could be
19 withdrawn at the proposed plant location in Seminole County
20 without causing damage to the river?

21 A. We don't believe that there is excess water in
22 the St. Johns River.

23 Q. And so based on the St. Johns Riverkeeper,
24 Incorporated's belief that there is no excess water in the
25 St. Johns River, is it correct then that there is no

1 quantity of water that could be withdrawn from the proposed
2 plant location on the river without causing damage to the
3 river? Is that correct?

4 A. I'm not an expert, but in my opinion, that's
5 correct.

6 Q. Did any expert provide information to the
7 St. Johns Riverkeeper, Incorporated which was used to
8 prepare the Petition for Administrative Hearing?

9 A. Would you define expert? How would you define
10 that?

11 Q. I would define expert as someone who has more
12 knowledge than the public at large and has a skill either
13 through education or experience.

14 A. No.

15 Q. Did the St. Johns Riverkeeper, Incorporated
16 consult with any expert concerning Seminole County's
17 proposed withdrawal from the St. Johns River prior to filing
18 its Petition for Administrative Hearing?

19 A. No.

20 Q. Since filing the Petition for Administrative
21 Hearing, has the St. Johns Riverkeeper retained any experts
22 to assist it in analyzing the impact of Seminole County's
23 proposed withdrawal from the St. Johns River?

24 A. We retained one expert.

25 Q. And which expert is that?

1 A. Robin Lewis.

2 Q. And when was Mr. Lewis retained?

3 A. Last week.

4 Q. Has Mr. Lewis completed his analysis of the
5 impact of Seminole County's proposed withdrawal from the
6 St. Johns River and shared that information with the
7 St. Johns Riverkeeper, Incorporated?

8 A. No.

9 Q. As of today's date, has the St. Johns
10 Riverkeeper, Incorporated relied on the opinion of any
11 experts to support its position regarding the proposed
12 withdrawal by Seminole County from the St. Johns River?

13 A. Define relied. I'm not sure I understand what
14 that means.

15 Q. Relied means, in the normal vernacular, that you
16 have considered an analysis or study or opinion,
17 professional opinion, supplied to you by an expert, to
18 confirm your belief that this withdrawal is going to cause
19 harm or damage to the river.

20 DEPONENT: Could you repeat the question?

21 (Pending question read back by court reporter).

22 A. (By the Deponent) We have relied on our own
23 opinion.

24 Q. And when you say your own opinion, who do you
25 mean in the collegial we?

1 A. Myself.

2 Q. Anybody else?

3 A. No.

4 Q. Do you consider yourself an expert on the
5 hydrologic impacts of the proposed withdrawal by Seminole
6 County from the St. Johns River?

7 A. An expert? No.

8 Q. Do you consider yourself an expert on the
9 ecological effects of the proposed withdrawal by Seminole
10 County from the St. Johns River?

11 A. No.

12 Q. Do you consider yourself an expert with respect
13 to any impact caused by the proposed withdrawal by Seminole
14 County from the St. Johns River?

15 A. Expert? No.

16 Q. Are you aware that County Exhibit No. 2 -- and
17 that's the way I'll refer to it, for the record, which is
18 your petition -- describes how Seminole County's proposed
19 Consumptive Use Permit will allegedly injure the St. Johns
20 Riverkeeper, Incorporated's substantial interest?

21 A. Yes.

22 Q. Is the St. Johns Riverkeeper, Incorporated aware
23 of any injuries to its substantial interests resulting from
24 Seminole County's proposed withdrawal which are not
25 identified in County Exhibit No. 2?

1 MR. WRIGHT: I'm going to object to the form of
2 the question. You can go ahead and answer.

3 DEPONENT: I'm sorry. Would you repeat that?

4 MR. de la PARTE: Could you repeat it?

5 (Pending question read back by court reporter).

6 A. (By the Deponent) No.

7 Q. Are you aware that County Exhibit No. 2 lists
8 issues of fact and law concerning Seminole County's proposed
9 Consumptive Use Permit Application which are disputed by the
10 St. Johns Riverkeeper, Incorporated?

11 A. Yes.

12 Q. Are you aware of any disputed issues of fact and
13 law concerning Seminole County's Consumptive Use Permit
14 Application which are not listed in County Exhibit No. 2?

15 MR. WRIGHT: Objection, asked and answered.

16 Go ahead and answer.

17 A. (By the Deponent) No.

18 Q. Are you aware that County Exhibit No. 2
19 describes the facts and presents legal argument as to why
20 Seminole County's Consumptive Use Permit Application should
21 be denied?

22 A. Yes.

23 Q. Are you aware of any facts or legal arguments
24 not described in County Exhibit 2 which would support denial
25 of Seminole County's Consumptive Use Permit Application?

1 MR. WRIGHT: Objection, asked and answered.

2 Go ahead.

3 DEPONENT: Repeat the question, please.

4 MR. de la PARTE: Please repeat it.

5 (Pending question read back by court reporter).

6 A. (By the Deponent) No.

7 Q. All right. Let me ask you to turn to Page 3 of
8 County Exhibit No. 2.

9 A. Okay.

10 Q. And specifically look at Paragraph No. 6.

11 A. Okay.

12 Q. And just for the record, this paragraph disputes
13 whether the Proposed Agency Action is within the public
14 interest and meets a number of rules and statutes cited in
15 there, and then goes on to say, Specifically, Petitioner
16 believes the District failed to provide reasonable
17 assurances that the Application, colon, and then there's a
18 series of subparagraphs a) through h) which lists items
19 which the Riverkeeper believes are in dispute regarding the
20 Application. Do you see that?

21 A. Yes.

22 Q. Let's look at the very first one, which is, Will
23 not cause adverse impacts to existing surface water storage
24 and conveyance capabilities.

25 What specific surface water storage and

1 conveyance capabilities does St. Johns Riverkeeper,
2 Incorporated believe may be adversely affected by Seminole
3 County's proposed consumptive use of water?

4 A. According to the St. Johns River Water
5 Management District, the removal of the water will cause a
6 reduction in the surface of the water. So that, in our
7 opinion, reduces water storage.

8 Q. I'm not an expert, but if the withdrawal of
9 water reduces the level of water in a river, wouldn't that
10 increase water storage?

11 A. I'm not an expert, but I think what it would
12 cause is water filling in. So, for example, potentially
13 saltwater filling in where freshwater was removed.

14 Q. And that is the specific surface water storage
15 and conveyance capabilities that the Riverkeeper believes
16 may be adversely affected by Seminole County's proposed
17 consumptive use of water?

18 A. I think I mentioned it will reduce the elevation
19 of the river at the site, potentially.

20 Q. And would this reduction in elevation occur
21 downstream of the withdrawal point?

22 A. I'm not an expert. I don't know that.

23 Q. Do you know whether it will occur upstream of
24 the withdrawal point?

25 A. I'm not an expert.

1 Q. Okay. I think we've established you're not an
2 expert. My question is whether you have information on
3 behalf of the St. Johns Riverkeeper that would indicate that
4 this withdrawal would reduce the level of water downstream
5 of the withdrawal point?

6 A. I guess I would say logic would dictate it
7 would.

8 Q. All right. What about upstream of the
9 withdrawal point?

10 A. Don't know that.

11 Q. Do you know how far downstream of the withdrawal
12 point this reduction in storage and conveyance capability
13 will propagate?

14 A. Do not.

15 Q. What evidence does the St. Johns Riverkeeper,
16 Incorporated have that the existing surface water storage
17 and conveyance capabilities of the St. Johns River will be
18 adversely impacted in the manner that you have suggested?

19 A. Stage reduction came from the Technical Staff
20 Report of the St. Johns River Water Management District.

21 Q. Is the St. Johns Riverkeeper, Incorporated at
22 this point in time relying on any other evidence to support
23 its position regarding 6 a) besides the Staff Report?

24 A. Our beliefs and our knowledge.

25 Q. Okay. What specifically about your beliefs and

1 knowledge are you relying on to support the St. Johns
2 Riverkeeper's position that this withdrawal will adversely
3 affect surface water storage and conveyance capabilities
4 downstream of the site?

5 A. Again, just the staff Technical Report, reading
6 that and thinking about it.

7 Q. Okay. Let's look at 6 b).

8 A. Okay.

9 Q. Which says that the St. Johns Riverkeeper
10 disputes that reasonable assurance has provided that the
11 Application will not adversely impact the value of functions
12 provided to fish and wildlife, and listed species including
13 aquatic and wetland-dependent species, by wetlands, other
14 surface waters and other water-related resources of the
15 District.

16 Can you identify for me what specific wetlands
17 the St. Johns Riverkeeper, Incorporated believe would be
18 adversely affected as a result of the proposed withdrawal?

19 A. Wetlands in the area and downstream of the area.

20 Q. When you say wetlands in the area, what do you
21 mean by that?

22 A. Wetlands in the area near where the proposed
23 withdrawal will be built.

24 Q. Okay. And when you say --

25 A. And then we believe that if it impacts, as we

1 believe, that area, then all wetlands downstream could be
2 impacted.

3 Q. So you mean all wetlands downstream from the
4 point of withdrawal to the mouth of the river?

5 A. Yes.

6 Q. What other surface waters is the St. Johns
7 Riverkeeper referring to in this subsection 6 b)?

8 A. Would you define -- I don't understand the
9 question.

10 Q. Well, I'm looking at the allegation that there's
11 a dispute regarding whether or not the Application will
12 adversely impact the value of functions provided to fish and
13 wildlife, and listed species including aquatic and
14 wetland-dependent species by wetlands. And I think we just
15 covered that.

16 The next item is other surface waters, and so my
17 question to you is what other surface waters, besides the
18 wetlands that you described, does the St. Johns Riverkeeper,
19 Incorporated believe will be adversely impacted by this
20 withdrawal?

21 A. The tributaries to the St. Johns River.

22 Q. And would those be tributaries downstream of the
23 proposed withdrawal site?

24 A. Yes.

25 Q. Would that include the Oklawaha River?

1 A. Potentially, yes.

2 Q. And then finally the last item in that paragraph
3 is other water-related resources of the District. What
4 other water-related resources of the District does St. Johns
5 Riverkeeper believe would be adversely affected by the
6 proposed Consumptive Use Permit?

7 A. Potentially the springs.

8 Q. Okay. What springs?

9 A. Potentially any spring that could be downstream
10 of the proposed withdrawal.

11 Q. Would this be any spring that is located within
12 the St. Johns River basin?

13 A. Potentially, yes.

14 Q. Okay. Would this include springs that are
15 located outside the St. Johns River basin?

16 A. No.

17 Q. Would the wetlands, other surface waters and
18 other water-related resources of the District, that is
19 referred to in this Paragraph 6 b), be limited to those
20 wetlands, other surface waters and water resources of the
21 District located within the St. Johns River basin?

22 A. I'm sorry. Would you repeat that?

23 Q. Yes.

24 MR. de la PARTE: Could you go ahead and repeat
25 it?

1 DEPONENT: Yes. Could you repeat it, ma'am?

2 (Pending question read back by court reporter).

3 A. (By the Deponent) Yes.

4 Q. What evidence does the St. Johns Riverkeeper
5 have which indicate that these wetlands, other surface
6 waters and other water-related resources of the District
7 will be adversely impacted by Seminole County's proposed
8 consumptive use of water?

9 A. Our belief that removing water from the
10 St. Johns River will impact the salinity regime.

11 Q. And when you say our belief, does that mean your
12 belief?

13 A. That means my organization's belief, in reading
14 what is in the St. Johns River Water Management District
15 documents.

16 Q. Okay. And what specifically are you relying on
17 in the St. Johns River Water Management District documents
18 to support your belief that this withdrawal will adversely
19 affect those wetlands, other surface waters and
20 water-related resources of the District?

21 A. Statements that the salinity will -- the
22 salinity regime downstream will be altered by removing water
23 from the river.

24 Q. And those are statements that are contained in
25 the Technical Staff Report that was issued by the District

1 on this permit?

2 A. And then other documents.

3 Q. And what other documents, besides the Technical
4 Staff Report, are you referring to that contain these
5 statements?

6 A. I don't know the names of them. They're
7 available on the Web site.

8 Q. Okay. Do any of these other documents that are
9 available on the Web site specifically address the proposed
10 withdrawal of the 5.5 million gallons a day by Seminole
11 County from this site?

12 A. The other documents I'm referring to discuss
13 withdrawals, in general, from the river.

14 Q. Do you know whether those withdrawals, in
15 general, from the Web, incorporate the proposed 5.5 million
16 gallon a day withdrawal?

17 A. I don't know if they incorporate. Those are
18 based on total numbers of withdrawals. So, for example, 155
19 million gallons a day.

20 Q. Are these documents that you're referring to
21 reports prepared by the District which indicate the quantity
22 of water that could be withdrawn from the St. Johns River
23 without exceeding one of the established Minimum Flows and
24 Levels?

25 A. I don't know the answer to that. I know --

1 I can't answer that.

2 Q. Is the only specific document that you're
3 relying on to support this Paragraph 6 b), that relates
4 directly to Seminole County's proposed withdrawal, the
5 Technical Staff Report prepared by the District?

6 A. And my knowledge, our knowledge.

7 Q. Okay. What specific knowledge do you have
8 concerning Seminole County's proposed withdrawal that you're
9 relying on to support this allegation?

10 A. Just observationally.

11 Q. Okay. Now, is it your understanding that
12 Seminole County's proposed withdrawal is not yet in place?
13 Is that correct?

14 A. That's correct. It's proposed.

15 Q. All right. Have you observed any direct effects
16 from this proposed withdrawal, given that it's not yet in
17 place?

18 A. No.

19 Q. And so when you refer to observations that
20 you've made, are those observations that you've made of
21 other withdrawals?

22 A. No. Just generally observations about the
23 river, as, for example, stage drops in the river during the
24 trips that I make down there. I notice how some wetland
25 areas degrade.

1 Q. What wetland areas have you indicated or have
2 you observed degrade as a result of stage drops?

3 A. Just wetlands adjacent to the river, in that
4 general area.

5 Q. Okay. In what counties are those wetlands
6 located?

7 A. Volusia, Lake, Seminole.

8 Q. Do you know whether those stage drops that you
9 refer to are caused by any existing withdrawals from the
10 river?

11 A. I don't know that.

12 Q. Could those stage reductions that you're
13 referring to be as a result of natural fluctuations in flow
14 and water levels in the river?

15 A. They could be, but they also could be the
16 results of the withdrawal that are occurring in the upper
17 part of the basin. I don't know that.

18 Q. How many boat trips have you taken to the
19 portion of the river located in Seminole County?

20 A. Twenty.

21 Q. When was the last trip?

22 A. We had two trips in April of 2008.

23 Q. How far upstream have you gone in the St. Johns
24 River on these boat trips?

25 A. Are you specifically talking about the three-day

1 boat trips that we take?

2 Q. Let's just talk, in general, about boats trips
3 that you've been on.

4 A. Well, we have a variety of boat trips. So
5 specifically if we're talking about the boat trips that go
6 in this area that we're talking about, those would be the
7 three-day boat trips where we take groups of people from
8 Jacksonville to Sanford and then we return; we take a group
9 of people from Sanford to Jacksonville.

10 Q. Okay. And you say three-day boat trips. Are
11 there other types of boat trips besides the three-day boat
12 trips?

13 A. We have a wide variety of boat trips in this
14 area, in the lower St. Johns River.

15 Q. Would the three-day boat trips be the only boat
16 trips that you take upstream to Seminole County?

17 A. Yes, sir.

18 Q. And what's the furthest point upstream have you
19 gone in the St. Johns River on these three-day boat trips?

20 A. It would -- the furthest upstream would be to
21 Lake Monroe, approximately equal to Sanford Harbor, Sanford
22 Marina, so I would say roughly 40% south -- or 40% of the
23 Lake Monroe area.

24 Q. Have you ever personally been on a boat trip
25 upstream of Lake Monroe?

1 A. Yes.

2 Q. How many boat trips have you personally been
3 upstream of Lake Monroe?

4 A. Three.

5 Q. And how far upstream have you been on these
6 three boat trips?

7 A. I've been to the headwaters of the river. To
8 get to that, I was on an airboat, so I guess that's
9 classified as a boat.

10 Q. And did you do that on one of these three boat
11 trips or on all three of these boat trips?

12 A. One.

13 Q. And when did that boat trip take place?

14 A. I believe it was the fall of 2003.

15 Q. Okay. Let's look at Page 4, Paragraph 6 (c).

16 A. Okay.

17 Q. It says that the St. Johns Riverkeeper alleges
18 or disputes that the Application will not cause adverse
19 secondary impacts to the water resources. What does the
20 St. Johns Riverkeeper, Incorporated mean by, quote,
21 secondary impacts to water resources?

22 A. Increased salinity would be an example of that.

23 Q. Any other secondary impacts as a result of the
24 proposed withdrawal, besides increased salinity?

25 A. Reduction of assimilative capacity, meaning the

1 river may not be able to handle the amount of pollution
2 that's being put into it.

3 Q. Any other secondary impacts?

4 A. Potential loss to or impact/damage to, for
5 example, submerged aquatic vegetation.

6 Q. Any other secondary impacts?

7 A. Potential loss of fisheries resources.

8 Q. Any other secondary impacts?

9 A. Potential impacts to wildlife, including birds.

10 Q. Any other secondary impacts?

11 A. Potential impacts to boating.

12 Q. Any others?

13 A. Aesthetics.

14 Q. Any others?

15 A. Potential economics.

16 Q. Any others?

17 A. Not that I can think of right now.

18 Q. Okay. Will all these secondary impacts that
19 you've identified from the withdrawal of Seminole County's
20 proposed allocation from the river occur within the
21 St. Johns River basin?

22 A. Yes.

23 Q. Would these secondary -- would any of these
24 secondary impacts occur upstream of the proposed withdrawal
25 location?

1 A. Potentially.

2 Q. Do you know which of these would occur upstream?

3 DEPONENT: May I see the list?

4 (Addressing question to court reporter).

5 MR. de la PARTE: Here. I'll go through them.

6 I'll help you out. I wrote them down.

7 Q. (By Mr. de la Parte) Increased salinity?

8 A. Potentially.

9 Q. Reduction of assimilative capacity?

10 A. Potentially.

11 Q. Damage to submerged aquatic vegetation?

12 A. Not sure about that one.

13 Q. Loss of fisheries?

14 A. Potentially.

15 Q. Potential impact to wildlife?

16 A. Yes.

17 Q. Impacts to boating?

18 A. Potentially.

19 Q. Aesthetics?

20 A. Yes.

21 Q. Economics?

22 A. Yes.

23 Q. What specific evidence does the St. Johns

24 Riverkeeper have in its possession which supports the

25 allegation that these secondary impacts will occur as a

1 result of the proposed withdrawal from the St. Johns River
2 by Seminole County?

3 A. The statement that withdrawing that water will
4 reduce the stage of the river; potentially impact salinity
5 downstream. I'd say that covers it.

6 Q. Okay. I think you've got in front of you County
7 Exhibit No. 1, which is the Notice of Deposition.

8 A. Yes, I do.

9 Q. And if you turn to Exhibit A to that Notice of
10 Deposition, it's the -- right here -- it's the Staff Report.
11 A copy of the Staff Report is attached to the Notice.

12 A. Yes.

13 Q. Can you point to me the specific statement that
14 you're relying on that the withdrawal will reduce the stage
15 in the river and will increase salinity?

16 A. For salinity, it's discussed starting on --
17 I guess it starts Page 10.

18 Q. Okay. And for the record, this is Exhibit A to
19 County Exhibit No. 1, Page 10 of 21.

20 A. And it's discussed through Page 13.

21 Q. Okay. What about the reduction in stage that
22 you reference?

23 A. Exhibit A, Page 9 of 21.

24 Q. Okay. Let me ask you to go back to the
25 Petition -- Oh. Are you finished? I'm sorry.

1 A. No. Yes. I'm finished.

2 Q. All right. Subsection 6 (d, the Application
3 will not adversely impact the maintenance of surface or
4 ground water levels or surface water flows established
5 pursuant to Chapter 40C-8.

6 A. That's statement d), correct?

7 Q. Correct.

8 A. Okay.

9 Q. What specific minimum groundwater levels
10 established by the District in Chapter 40C-8 does the
11 St. Johns Riverkeeper, Incorporated believe will be
12 adversely impacted by Seminole County's proposed consumptive
13 use of water?

14 A. I guess, in general, removing water from the
15 river could impact groundwater levels.

16 Q. Okay. I happen to have a copy of 40C-8 here,
17 for you to refer to, to refresh your recollection.

18 MR. de la PARTE: You can look at it first,
19 counsel. (Tendering document to Mr. Wright).

20 Q. (By Mr. de la Parte) Can you identify for me in
21 Chapter 40C-8 what specific groundwater level established in
22 that Administrative Code chapter does the St. Johns
23 Riverkeeper, Incorporated believe will be adversely impacted
24 by Seminole County's proposed withdrawal of water from the
25 St. Johns River?

1 MR. WRIGHT: Object to the question on legal
2 conclusion. You can answer it, if you can,
3 Mr. Armingeon.

4 A. (By the Deponent) I'm not an attorney.

5 Q. So you could not identify for me here, as the
6 designated representative of the St. Johns Riverkeeper,
7 which of the established minimum groundwater levels are the
8 ones that the organization believes will be impacted by the
9 proposed withdrawal?

10 MR. WRIGHT: Same objection.

11 A. (By the Deponent) No.

12 Q. Okay. This item number d), 6 d), also refers to
13 minimum surface water levels established by the District in
14 Chapter 40C-8. Can you identify for me what specific
15 minimum levels in surface water established in 40C-8 does
16 the St. Johns Riverkeeper, Incorporated believe will be
17 adversely impacted by Seminole County's proposed consumptive
18 use of water?

19 MR. WRIGHT: I'm going to object again, to the
20 extent it calls for him to interpret the regulations
21 set forth in 40C-8, but if you can answer it, go ahead.

22 MR. de la PARTE: I'm just asking for him to
23 identify them.

24 A. (By the Deponent) No.

25 Q. Are you aware that the St. Johns River Water

1 Management District has established Minimum Flows at several
2 locations in the river?

3 A. Yes.

4 Q. Are you aware that the St. Johns River Water
5 Management District has established a Minimum Flow at Lake
6 Washington?

7 A. Yes.

8 Q. Are you aware that the St. Johns River Water
9 Management District has established a Minimum Flow in Taylor
10 Creek 1.7 miles downstream of structure S-164?

11 A. Yes.

12 Q. Are you aware that the St. Johns River Water
13 Management District has established Minimum Flows at State
14 Road 50?

15 A. Yes.

16 Q. Are you aware that the St. Johns River Water
17 Management District has established Minimum Flows at
18 Lake Monroe?

19 A. Yes.

20 Q. Are you aware that the St. Johns River Water
21 Management District has established Minimum Flows at State
22 Road 44?

23 A. Yes.

24 Q. Did the St. Johns Riverkeeper provide written
25 comment or other input to the District during the rule

1 development and adoption process that led to the
2 establishment of these five minimum levels?

3 A. No.

4 Q. Did the St. Johns Riverkeeper, Incorporated
5 participate in any of the workshops or hearings that led to
6 the establishment of these Minimum Flows and Levels?

7 A. No.

8 Q. Which of these five established Minimum Flows,
9 if any, does the St. Johns Riverkeeper believe would be
10 adversely impacted by Seminole County's proposed consumptive
11 use of water?

12 A. I can't answer that.

13 Q. Well, sitting here today, can you identify for
14 me, on behalf of the St. Johns Riverkeeper, which of these
15 established Minimum Flows would be adversely affected by
16 this proposed withdrawal?

17 A. Well, I think your question assumes that we
18 agree with overriding the 155 million gallon a day MFL.

19 Q. Well, just so that we can clarify it and
20 hopefully you can answer the question, my question is not
21 meant to suggest that these are appropriate levels or
22 inappropriate levels, just that they exist.

23 A. Right.

24 Q. And I'm asking you today, can you identify for
25 me which of these five levels does the St. Johns Riverkeeper

1 believe would be adversely impacted by Seminole County's
2 proposed withdrawal?

3 DEPONENT: I'm sorry. Would you repeat the
4 MFLs? (Addressing question to court reporter).

5 Or could you, Mr. de la Parte?

6 MR. de la PARTE: Sure.

7 Q. (By Mr. de la Parte) We'll start up upstream.
8 How about the MFL that's established at Lake Washington?
9 Does the St. Johns Riverkeeper believe that Seminole
10 County's proposed withdrawal would adversely impact
11 compliance with that MFL?

12 A. I'm not sure.

13 Q. How about the MFL that is established in Taylor
14 Creek? Does the St. Johns Riverkeeper, Incorporated believe
15 that Seminole County's proposed withdrawal would adversely
16 affect compliance with that MFL?

17 A. Not sure.

18 Q. What about the MFL at State Road 50? Does the
19 St. Johns Riverkeeper believe that Seminole County's
20 proposed withdrawal will adversely affect compliance with
21 that MFL?

22 A. Not sure.

23 Q. What about the MFL at Lake Monroe? Does the
24 St. Johns Riverkeeper believe that Seminole County's
25 proposed withdrawal will adversely affect compliance with

1 that MFL?

2 A. Not sure.

3 Q. What about the MFL at State Road 44? Does the
4 St. Johns Riverkeeper believe that Seminole County's
5 proposed withdrawal will adversely affect compliance with
6 that MFL?

7 A. Not sure.

8 Q. Were you aware at the time that the Water
9 Management District was in the process of establishing these
10 five MFLs?

11 A. Generically, yes.

12 Q. Were you -- and I'm speaking you as the
13 St. Johns Riverkeeper, Incorporated.

14 A. Right, right.

15 Q. Were you aware of what the significance would be
16 once these MFLs were established in the river, in terms of
17 setting limits on withdrawals that could be made from the
18 river?

19 A. I would answer that by not as much as we do now.

20 Q. But you did have some awareness that they would
21 set limits on how much water could be withdrawn from the
22 river; is that correct?

23 A. Generally, yes.

24 Q. Did you, at the time that these MFLs were being
25 established by the St. Johns River Water Management

1 District, accept them as validly based limits on the amount
2 of withdrawals that could be withdrawn from the river?

3 A. I think. . . I would not agree with how you
4 worded that question. When you said -- are you asking me do
5 I accept them as valid?

6 Q. No. I said at the time that they were being
7 established, did you accept them as being valid?

8 A. No.

9 Q. Given that the St. Johns Riverkeeper,
10 Incorporated was aware that these levels were being
11 established and they would have an effect on how much water
12 could be withdrawn from the river and it appears that you
13 did not support the validity of those Minimum Flows and
14 Levels, then why did your organization not participate in
15 the adoption of those levels?

16 A. I would say that's a combination of staffing and
17 logistics.

18 Q. When you say out of staffing and logistics, does
19 that mean that your organization had more important
20 priorities at the time that these levels were being
21 established than the levels themselves?

22 A. No. I would say that to go to a meeting in
23 central Florida requires hours that, at that time, we had a
24 full-time staff of two people.

25 Q. Were you aware that all of these Minimum Flows

1 have been established as rules by the Water Management
2 District?

3 A. Yes.

4 Q. Are you aware that all of the rules that were
5 established by the Water Management District were approved
6 by the Governing Board?

7 A. Yes.

8 Q. And were you aware that all of the hearings
9 where these Minimum Flows were established took place in
10 Palatka?

11 A. Yes, sir.

12 Q. But your organization never attended any one of
13 these meetings?

14 A. No.

15 Q. Okay. Let's look at 6 e) in County Exhibit
16 No. 2. You have it in front of you.

17 A. Yes.

18 Q. It says, Will not cause adverse impacts to a
19 work of the District established pursuant to Section
20 373.086.

21 What does the St. Johns Riverkeeper,
22 Incorporated mean by a, quote, work of the District
23 established pursuant to Section 373.086?

24 MR. WRIGHT: I'm objecting, because this is a
25 matter that appears to be coming right out of the

1 regulations. And to the extent that you understand
2 what a work of the District is, you can go ahead and
3 answer.

4 MR. de la PARTE: Is that a form objection,
5 Counsel? What's the form objection, so I can rephrase
6 my question?

7 MR. WRIGHT: It calls for a legal conclusion.

8 Q. (By Mr. de la Parte) I'm not asking you for a
9 legal conclusion. I'm just asking you to provide whatever
10 information that you have, as a representative of the
11 organization, as to what is a work of the District, as you
12 have alleged in this Petition?

13 A. I can't answer that.

14 Q. Can you identify for me which Works of the
15 District the St. Johns Riverkeeper, Incorporated believe
16 would be adversely impacted by Seminole County's proposed
17 withdrawal?

18 A. Well, in a non-legal opinion, I consider a work
19 of the District to protect water quality, and I don't
20 believe they're doing that.

21 Q. Anything else?

22 A. No.

23 Q. What evidence do you rely on for your belief
24 that this withdrawal by Seminole County will not protect
25 water quality or will adversely impact water quality?

1 A. St. Johns River Water Management District
2 reports, presentations that have been made here by Staff.

3 Q. And what specific adverse water quality effect
4 do you believe that the proposed withdrawal by Seminole
5 County will cause in the St. Johns River?

6 A. Well, we've discussed them. Increased salinity,
7 reduced flow, potential impacts to the river's assimilative
8 capacity, potential damage to submerged aquatic vegetation,
9 SAVs, potential impacts to wetlands, wildlife habitat,
10 fishery resources, boating, economics, aesthetics.

11 Q. And does the St. Johns Riverkeeper, Incorporated
12 rely on these St. Johns River Water Management District
13 reports and presentations for its belief that all of these
14 items would be adversely affected by the proposed
15 withdrawal?

16 A. That, and anecdotal information from our members
17 and members of this community.

18 Q. What anecdotal evidence are you relying on for
19 your belief that the proposed withdrawal would have these
20 adverse impacts?

21 A. Observations, people noting that salinity is
22 moving further upstream; for example, barnacles being found
23 far upstream, farther than normal; types of fish people
24 catch upstream of here; visual loss of aquatic vegetation
25 along the shorelines; algae blooms, current algae blooms.

1 Those are just some general examples.

2 Q. Okay. Are there other impacts occurring to the
3 St. Johns River besides the withdrawal of water?

4 A. Currently?

5 Q. Yes.

6 A. Yes.

7 Q. And what are those other impacts?

8 A. Well, the river is listed by the State of
9 Florida as impaired for nutrient pollution.

10 Q. And what's the source of that nutrient
11 pollution?

12 A. All of us.

13 Q. Not me. I live in Tampa, so. . .

14 A. Well, nitrification, non-point runoff, septic
15 tanks, paper mills, wastewater treatment plants, fertilizer
16 from our yards. The normal. Everything that's impacting
17 Tampa Bay, I would say.

18 Q. Well, I'm sure it's not impacting it all the way
19 across the state.

20 A. No, no. But the same conditions that cause
21 water quality issues.

22 Q. And could those manmade effects that you're
23 talking about, waste discharges, point and non-point waste
24 discharges, could they be responsible for some of these
25 changes that your members and members of this community have

1 anecdotally advised you have?

2 A. Oh, absolutely. Sure. Loss of, you know,
3 freshwater coming downstream before any withdrawals are --
4 any more withdrawals are put on the river.

5 Q. How about the algal blooms? Could those be
6 caused by the nutrient loading that you described?

7 A. Yes. They are caused by that.

8 Q. And the types of fish that are caught, do those
9 nutrient discharges impact the type of fish species and
10 diversity of fish species in the river?

11 A. Yes, but I would suggest that salinity has a
12 larger part in it.

13 Q. Do you know how much water is withdrawn from the
14 river in Duval County?

15 A. In Duval County? I think there's a couple of
16 small intakes, but I don't have the volume.

17 Q. Do you know whether those intakes, those
18 withdrawals, have been increasing or decreasing in the last
19 10 years?

20 A. I don't know that. In fact, I only know of one.
21 I think there is a building, potentially one of those
22 buildings out the window, that is moving water for
23 potentially air conditioning cooling, I think.

24 Q. So that's the only withdrawal that you're aware
25 of in the St. Johns River in Duval County?

1 A. That I'm aware of, right.

2 Q. Are there power plants?

3 A. Yes. The Northside Generating Plant takes out a
4 volume and, if you believe their permit, they're returning
5 the same volume.

6 Q. Have you or your organization investigated as to
7 whether or not -- as to what portion of that volume is
8 impacting return to the river?

9 MR. WRIGHT: I'm going to object to this
10 question. It's outside the scope of the Notice of
11 Deposition. Go ahead and answer it, if you know.

12 A. (By the Deponent) No.

13 Q. Could these observations that your members and
14 the members of your community have anecdotally advised you
15 of be the result of withdrawals from these various sources
16 in Duval County?

17 A. I don't believe so.

18 Q. And on what do you base that opinion?

19 A. Just my opinion.

20 Q. Okay. Let me ask it this way. On what evidence
21 do you base that opinion?

22 A. And would you repeat the initial question?

23 MR. de la PARTE: The one that he answered It's
24 just my opinion.

25 (Questions and Answers beginning on Page 42,

1 Line 13 through Line 21 read back by court reporter).

2 A. (By the Deponent) No hard evidence.

3 Q. Okay. Let me ask you to look at 6 f).

4 A. Okay.

5 Q. That the Application will comply with any
6 applicable special basin or geographic area criteria
7 established pursuant to Chapter 40C-41. Do you see that?

8 A. Yes, I do.

9 Q. Okay. I just happened to have a copy of Chapter
10 40C-1. 40C-41. I'm sorry. And I want to know, with that
11 Chapter 40C-41 in hand, can you point to me which are these
12 applicable special basin or geographic area criteria that is
13 referred to in Paragraph 6 f) of the Riverkeeper's Petition?

14 MR. WRIGHT: Objection to the extent it calls
15 for a legal conclusion. Go ahead and answer, if you
16 can.

17 A. (By the Deponent) No.

18 Q. Okay. All right. Let me ask you to turn to
19 6 g), the Application was filed with the District and
20 completed in accordance with the requirements of Chapter
21 40C-4, Chapter 40C-1, Chapters 403, and 373 F.S.

22 Now, I have copies of all those. If I gave you
23 those, would you be able to identify for me what specific
24 requirements in those chapters the St. Johns Riverkeeper
25 believes that Seminole County's application did not meet?

1 MR. WRIGHT: Answer if you can.

2 A. (By the Deponent) No.

3 Q. All right. Let's turn to 6 h). Does the
4 St. Johns Riverkeeper believe that Seminole County's
5 proposed consumptive use -- well, let me back up.

6 Do you know what the term Outstanding Florida
7 Water means?

8 A. Generally, yes.

9 Q. And what do you understand that term to mean?

10 A. That it is a body of water of such quality that
11 it has been designated the designation Outstanding Florida
12 Water. For example, the Wekiva is an Outstanding Florida
13 Water.

14 Q. And is that designation made by a specific
15 agency of the state of Florida?

16 A. DEP.

17 Q. Do you know whether DEP has designated the water
18 where the proposed Seminole County intake structure will be
19 located as an Outstanding Florida Water?

20 A. Based on maps I've seen, I think it's just
21 upstream of the -- if you want to say there's a physical
22 boundary, it's just upstream of the physical boundary.

23 Q. So when you say it's upstream, does that mean,
24 then, the intake structure is not physically located within
25 the designated boundaries of an Outstanding Florida Water?

1 A. Based on maps I've seen that Seminole County has
2 presented, yes.

3 Q. Does the St. Johns Riverkeeper, Incorporated
4 believe that Seminole County's proposed consumptive use of
5 water will significantly degrade an Outstanding Florida
6 Water?

7 A. Yes.

8 Q. And what specific Outstanding Florida Water does
9 the St. Johns Riverkeeper, Incorporated believe will be
10 degraded by the proposed withdrawal?

11 A. The Wekiva.

12 Q. And how will the -- how physically do you
13 understand that Seminole County's proposed withdrawal will
14 physically degrade the Wekiva River?

15 A. Twofold. One, it will be removing freshwater
16 upstream of it that would normally flow through the area,
17 the aquatic preserve, if you will. And then, you know, the
18 statement that has been made at numerous meetings I've
19 attended where eventually concentrate will be discharged
20 somewhere, potentially back into the river, which will flow
21 into the aquatic preserve boundaries.

22 Q. Do you know whether concentrate disposal is part
23 of the proposed consumptive use of water by Seminole County?
24 I'm referring to just the 5.5 million gallons a day.

25 A. Right, right. I believe that how it would be

1 handled is if you -- well, I shouldn't say that. According
2 to the Staff Technical Report, it will be mixed with reuse
3 water, river water, and then integrated back into the reuse
4 system.

5 Q. Is it your understanding that Seminole County's
6 current 5.5 million gallon a day proposed withdrawal will
7 not result in a concentrate disposal to the river?

8 A. According to the Staff Technical Report, that's
9 correct.

10 Q. Do you have any evidence to dispute that Staff
11 Technical Report?

12 A. No.

13 Q. So the only impact that Seminole County's
14 proposed withdrawal would have on the Outstanding Florida
15 Water in the Wekiva River would be the physical withdrawal
16 of water; is that correct?

17 A. Yes.

18 Q. And what evidence does the St. Johns Riverkeeper
19 have that indicates that the physical withdrawal of 5.5
20 million gallons a day would adversely affect or degrade the
21 Outstanding Florida Water at the Wekiva River?

22 A. Well, I would say observationally, on the boat
23 trips I can -- you know, I see the river stage change and
24 see impacts to wetlands in that area.

25 Q. When you say observationally, you see the river

1 stage change, what exactly does that mean? What do you see
2 change?

3 A. Well, sometimes you will notice the river is
4 low. Sometimes on our boat trips you see, you know -- you
5 can see high watermarks and the river is 2 or 3 feet below
6 there. Sometimes you see water that is up.

7 Q. Do you know how far the river water level would
8 have to fall before there would be a degradation of the
9 Outstanding Florida Water?

10 A. No. Not specifically, no, sir.

11 Q. Do you know whether a tenth of an inch reduction
12 in the level of water in the river would be sufficient to
13 degrade the Outstanding Florida Water at the Wekiva River?

14 A. Potentially. I guess what -- well, I won't
15 say -- I'll end with that.

16 Q. Okay. What evidence are you aware of that would
17 support the contention that a 1/10 of an inch reduction in
18 water level in the river at the Wekiva River would adversely
19 affect the Outstanding Florida Water?

20 A. What evidence -- I'm sorry. I lost my train of
21 thought.

22 DEPONENT: Would you repeat that?

23 (Addressing question to court reporter; pending
24 question read back by court reporter).

25 A. (By the Deponent) I don't have any, but let me

1 just say that I think, you know, we are not of the opinion
2 that this 5½ million gallons is going to be the only water
3 withdrawn by Seminole County. So, I'm going to give you
4 that.

5 Q. So does that mean that the impacts that you have
6 been testifying to, for I guess the better part of an hour
7 and a half, also incorporated other withdrawals by Seminole
8 County?

9 A. No. I'm specifically speaking about this, but,
10 you know, just so you'll understand. In fact, may I take a
11 break?

12 MR. de la PARTE: Sure. Oh, yeah.

13 (Recess taken 11:25 to 11:32 AM).

14 Q. (By Mr. de la Parte) Do you have your County
15 Exhibit No. 2, Page 4, Paragraph 7 in front of you?

16 A. Yes, sir, I do.

17 Q. This Paragraph 7 lists some additional issues
18 that the St. Johns Riverkeeper, Incorporated disputes with
19 respect to Seminole County's proposed Consumptive Use Permit
20 Application, and 7 a) says Whether the water authorized for
21 withdrawal by the proposed permit is necessary for an
22 economic and efficient use. Petitioner disputes the
23 accuracy of the Applicant's projected water use demands
24 submitted with the permit application. Petitioner disputes
25 the reuse rate and needs relied upon by the Applicant in

1 determining its projected water use demands.

2 What specifically does the St. Johns
3 Riverkeeper, Incorporated dispute about Seminole County's
4 projected water demands?

5 A. I guess, in general, I would say we dispute the
6 need to take water from the river.

7 Q. Are you aware that of the 5.5 million gallons a
8 day, about a million gallons is going to be used to
9 supplement Seminole County's reuse system?

10 A. (Indicating affirmatively).

11 Q. You're going to have to answer verbally.

12 A. Oh, I'm sorry. Yes. Well, I was under the --
13 originally, I thought it was higher than that. But if
14 that's what it is now, I'm aware of it.

15 Q. And are you aware that the remainder of the 5.5
16 million gallons a day is going to be utilized by Seminole
17 County to meet its projected potable water demands after
18 2013?

19 A. Yes. I mean, I relied on the numbers that are
20 in the Staff Technical -- or Technical Staff Report.

21 Q. Do you understand that Seminole County, like any
22 other utility, has demands that they have to meet for both
23 existing and future customers?

24 A. Yes.

25 Q. Do you understand that Seminole County has

1 projected what those demands would be in 2013 for its
2 potable water customers?

3 A. Yes.

4 Q. Does the St. Johns Riverkeeper, Incorporated
5 believe that those projected water demands are accurate?

6 A. I'm not sure.

7 Q. Do you know whether Seminole County's projected
8 water demands are overstated or understated?

9 A. Not sure.

10 Q. Does the St. Johns Riverkeeper, Incorporated
11 know what it believes or has it determined for itself what
12 Seminole County's projected water demands would be in 2013?

13 A. No.

14 Q. What specifically does the St. Johns
15 Riverkeeper, Incorporated dispute about Seminole County's
16 reuse rate and needs?

17 A. I'm not sure.

18 Q. Does the St. Johns Riverkeeper, Incorporated
19 dispute that Seminole County has a demand for reuse water?

20 A. Yes. Yes, they do have a demand. Correct.

21 Q. Does the St. Johns Riverkeeper, Incorporated
22 dispute the projected demand for reclaimed water that has
23 been developed by Seminole County?

24 A. I don't know.

25 Q. Do you know whether Seminole County's wastewater

1 treatment plants produce sufficient reclaimed water to meet
2 the projected demands of Seminole County's utility system?

3 A. According to the numbers that were in the TSR,
4 they do.

5 Q. Other than the numbers that are in the Water
6 Management District Technical Staff Report, is there any
7 other evidence that the St. Johns Riverkeeper has collected
8 which total the amount of reclaimed water that will be
9 produced by Seminole County's wastewater treatment plant to
10 meet their reuse demand?

11 A. Not at this time.

12 Q. Does the St. Johns Riverkeeper, Incorporated
13 dispute that Seminole County needs a source of supplemental
14 water for its reclaimed water system?

15 DEPONENT: I'm sorry. Would you repeat that?

16 (Addressing question to court reporter; pending
17 question read back by court reporter).

18 A. (By the Deponent) Based on my reading of the
19 Technical Staff Report, I would say -- I would dispute that,
20 yes.

21 Q. And that would go, again, to what you had
22 previously testified to as that you believe that Seminole
23 County's wastewater treatment plants produce an adequate
24 amount of reclaimed water to meet its projected needs?

25 A. Right.

1 Q. Let me ask you to look at 7 b). It says Whether
2 the Applicant's water needs can be met by implementation of
3 reclaimed water storage systems.

4 Do you know what reclaimed water storage system
5 Seminole County currently has?

6 A. No, I don't.

7 Q. Do you know what expansions to the reclaimed
8 water storage system that Seminole County is proposing in
9 the future?

10 A. I've heard them mention -- I think they have
11 Rapid Infiltration Basins, RIBs, but I don't know what their
12 plans are to expand those facilities.

13 Q. This section indicates that you -- the St. Johns
14 Riverkeeper, Incorporated believes that the portion of the
15 proposed withdrawal from the St. Johns River that is going
16 to be used to supplement the reclaimed water system could be
17 met instead through the implementation of reclaimed water
18 storage; is that correct?

19 A. That's correct.

20 Q. How much reclaimed water storage does the
21 St. Johns Riverkeeper, Inc. believe could be implemented by
22 Seminole County in order to eliminate the need to withdraw
23 water from the river?

24 A. I'm not an expert. I couldn't comment on that.

25 Q. Does the St. Johns Riverkeeper, Incorporated

1 have any such number or quantity in its possession at this
2 time?

3 A. No.

4 Q. Have you made any determination whether or not
5 the construction of this additional reclaimed water storage
6 is going to be technically, environmentally or economically
7 feasible for Seminole County?

8 A. Not an expert. I couldn't comment on that.

9 Q. I understand that, but has the St. Johns
10 Riverkeeper, Incorporated made any determination whether
11 this additional reclaimed water storage is going to be
12 technically, environmentally or economically feasible for
13 Seminole County?

14 A. No.

15 Q. Let's look at Subsection 7 c). It says Whether
16 the Applicant's water needs can be met by procurement of
17 reclaimed water from other sources.

18 What other sources of reclaimed water do you
19 believe are available to Seminole County that would obviate
20 the need to withdraw water from the St. Johns River?

21 A. Generally speaking, optimizing their reuse
22 system to where it potentially could produce or save reuse
23 water in a more efficient manner.

24 Q. And the reuse system that you're referring to is
25 Seminole's County own reuse system?

1 A. Yes.

2 Q. Do you know if there are any other communities
3 in the vicinity of Seminole County's reuse system that have
4 excess reclaimed water that would be suitable for Seminole
5 County's use?

6 A. No.

7 Q. Let's look at 7 d), Whether the Applicant's
8 water needs can be met by the creation of systems designed
9 to capture and store stormwater runoff.

10 What kind of systems does the St. Johns
11 Riverkeeper, Incorporated mean that are designed to capture
12 and store stormwater runoff?

13 A. I'm not -- I don't know.

14 Q. Do you know how much capacity these systems
15 would have to be designed to meet in order to capture and
16 store sufficient stormwater runoff to eliminate the need to
17 withdraw water from the St. Johns River?

18 A. Well, I'm not an expert, but I would assume if
19 you captured and stored 5.5 million gallons a day.

20 Q. Do you know whether there is 5.5 million gallons
21 of water a day that could be captured --

22 A. No. No.

23 Q. Does the St. Johns Riverkeeper, Incorporated
24 know whether it would be economically, technically or
25 environmentally feasible for Seminole County to create a

1 system designed to capture and store stormwater runoff so
2 that it would not need to withdraw water from the St. Johns
3 River?

4 A. No.

5 Q. Let's look at 7 e), Whether the permit will
6 interfere with presently existing legal uses of water. Do
7 you see that?

8 A. Yes.

9 Q. Does the St. Johns Riverkeeper, Incorporated
10 believe that Seminole County's proposed consumptive use of
11 water will interfere with any presently existing legal uses
12 of ground water?

13 A. I'm not a groundwater hydrologist.

14 Q. Okay. When you say -- when the St. Johns
15 Riverkeeper, Incorporated alleged in here that our -- that
16 Seminole County's withdrawal would interfere with existing
17 legal uses of water, do you know what type of water they're
18 referring to, ground or surface water?

19 A. I'm assuming surface water.

20 Q. Can you identify for me any existing legal uses
21 of groundwater that you believe, as the St. Johns
22 Riverkeeper, Incorporated, that Seminole County's withdrawal
23 would adversely affect?

24 A. No.

25 Q. Can you identify for me any existing legal uses

1 of surface water that you believe that Seminole County's
2 proposed withdrawal would interfere with or adversely
3 affect?

4 A. Well, it could potentially impact boating,
5 fishing, birdwatching, aesthetics.

6 Q. Okay. What about existing permitted consumptive
7 uses of water? Can you identify for me any existing
8 permitted consumptive uses of water on the St. Johns River
9 that the St. Johns Riverkeeper, Incorporated believe would
10 be interfered with or adversely impacted by Seminole
11 County's proposed withdrawal?

12 A. No.

13 Q. Does the St. Johns Riverkeeper, Incorporated or
14 any of your members have an existing permitted withdrawal
15 from the St. Johns River?

16 A. I don't know.

17 Q. How about the St. Johns Riverkeeper,
18 Incorporated?

19 A. Do we have a Consumptive Use Permit?

20 Q. Yes.

21 A. No.

22 Q. Do you know whether any of your members have
23 Consumptive Use Permits to withdraw surface water from the
24 St. Johns River?

25 A. I don't know that.

1 Q. Let's look at 7 f), Whether the Permit is
2 consistent with the public interest.

3 Does the St. Johns Riverkeeper, Incorporated
4 believe that Seminole County's proposed Consumptive Use
5 Permit is not consistent with the public interest?

6 A. Yes.

7 Q. And why does the St. Johns Riverkeeper,
8 Incorporated believe that the proposed consumptive use of
9 water is not consistent with the public interest?

10 A. Are you referring to the withdrawal Consumptive
11 Use Permit?

12 Q. I'm referring to the application that's pending,
13 that you've challenged.

14 A. Oh, Okay. That's what I thought.

15 Your question is why is it inconsistent with the
16 public interest?

17 Q. Yes. And more specifically, why does the
18 St. Johns Riverkeeper, Incorporated believe that it's
19 inconsistent?

20 A. Well, back to our belief that it will impact the
21 salinity, wetlands, boating, birdwatching, fishing,
22 aesthetics, that list of things. So, therefore, impacting
23 those is not consistent with the public interest.

24 Q. Okay. Any other characteristic of Seminole
25 County's permit application, proposed permit, that would be

1 inconsistent with the public interest, besides those that
2 you've just identified?

3 A. The river's ability to treat pollution, current
4 pollution loads.

5 Q. Any others?

6 DEPONENT: Would you mind telling me the list
7 of. . .

8 (Addressing question to court reporter; answer
9 on Page 57, Line 20 read back by court reporter).

10 A. (By the Deponent) And that I mentioned the
11 river's ability to treat the pollution that's going into it,
12 its assimilative capacity. That word again. I think that
13 covers it.

14 Q. Okay. Let's look at Paragraph 7 g).

15 A. Okay.

16 Q. Which says, Whether the St. Johns River is
17 capable of producing the amount of water allocated for
18 withdrawal by the permit.

19 Does the St. Johns Riverkeeper, Incorporated
20 believe the St. Johns River is incapable of producing the
21 5.5 million gallon a day average withdrawal requested by
22 Seminole County?

23 A. We believe it is incapable without causing harm
24 to the river.

25 Q. Is there any withdrawal of water from the

1 St. Johns River -- I'm talking about new withdrawal of water
2 from the St. Johns River --

3 A. Right. Not what's being currently withdrawn.

4 Q. Right.

5 -- that the St. Johns Riverkeeper, Incorporated
6 believes the river would be capable of producing?

7 A. We don't believe there's any excess water from
8 the river.

9 Q. Are you aware that there are a number of
10 existing permitted withdrawals from the St. Johns River?

11 A. Yeah. I believe about 29 million gallons a day
12 currently.

13 Q. And does the St. Johns Riverkeeper, Incorporated
14 believe that those 29 million gallons a day of
15 withdrawals -- that the river is capable of producing those
16 29 million gallons a day without causing harm to the system?

17 A. We believe that, according to people we've
18 talked to upriver, that there are some impacts, but
19 I don't -- it would be anecdotal information.

20 Q. Was the St. Johns Riverkeeper, Incorporated
21 aware of permits being issued to DeLand and Sanford and
22 Cocoa in the last five years either permitting or renewing
23 withdrawals from the St. Johns River?

24 A. I am now aware of them, so I guess your question
25 would speak to were we aware in the past.

1 Q. Yes.

2 A. I kind of generically knew that Cocoa Beach --
3 I didn't generically. I knew Cocoa Beach had been taking
4 water from the river.

5 Q. How about DeLand? Did you know that the City of
6 DeLand was permitted in 2006 to withdraw water from the
7 St. Johns River?

8 A. I knew it, but I'm not clear as if they are or
9 not.

10 Q. How about the City of Sanford? Are you aware
11 that the City of Sanford was permitted to withdraw water
12 from the river?

13 A. In a general sense, yes, sir.

14 Q. Why did the St. Johns Riverkeeper, Incorporated
15 never challenge any of those permitted withdrawals from the
16 river when they came up for approval?

17 A. I'm not sure.

18 Q. Did the St. Johns Riverkeeper, Incorporated
19 conclude that those withdrawals could be taken from the
20 river without causing harm to the resource?

21 A. No, we did not conclude that.

22 Q. Have you concluded the opposite of that, that
23 those withdrawals in fact would cause harm when taken from
24 the river?

25 A. I don't think we've reached a conclusion on

1 those.

2 Q. Setting aside what's already been permitted on
3 the river -- I think you said it was 29 million gallons a
4 day.

5 A. Approximately.

6 Q. Does the St. Johns Riverkeeper, has it
7 formulated or determined what is the maximum quantity of
8 water that could be withdrawn from the river without causing
9 harm to the river system?

10 A. No, other than our general belief that the water
11 that's in the river is for the river. In other words, we
12 don't believe there are any excess water that can be taken
13 from the river.

14 Q. Is that water in excess of what is currently
15 being permitted to be withdrawn from the river, or water
16 that would be in excess of any human withdrawals from the
17 river?

18 A. Well, some that is being taken now, until the
19 permits come up for review, it's a given. So, I guess you
20 could say additional withdrawals.

21 Q. So the St. Johns Riverkeeper, Incorporated then
22 disputes whether there can be any additional withdrawals
23 from the river?

24 A. Yes.

25 Q. And does that -- and was the Seminole County

1 permit application the one that was challenged because it
2 was the additional withdrawal from the river that you're
3 referring to?

4 A. Well, it was the permit that was applied for and
5 it was prior to the completion of the study that the Water
6 Management District is under way -- is currently
7 undertaking.

8 Q. Let's look at 7 h).

9 A. Okay.

10 Q. Whether the environmental harm caused by the
11 consumptive use is reduced to an acceptable amount.

12 What environmental harm does the St. Johns
13 Riverkeeper believe will be caused by Seminole County's
14 proposed consumptive use of water?

15 A. Increased salinity, reduced stage, impacts to
16 wetlands, impacts to submerged aquatic vegetation, impacts
17 to birding, impacts to boating, potential impacts to the
18 river's ability to treat the pollution that's going into it,
19 um. . .

20 Q. Okay.

21 A. I think that covers it, but I can go through the
22 list again.

23 Q. No. That's fine. Is there anything in the
24 St. Johns Riverkeeper, Incorporated's opinion that Seminole
25 County could do, short of withdrawing the permit

1 application, to reduce these impacts to an acceptable
2 amount?

3 A. Sorry, Mr. de la Parte. Would you repeat that?

4 DEPONENT: Or may I have that repeated?

5 (Addressing question to court reporter; pending
6 question read back by court reporter).

7 A. (By the Deponent) No.

8 Q. Let me ask you to turn to 7 i).

9 A. Okay. I've got it. Yes.

10 Q. Whether the economic harm caused by the
11 consumptive use is reduced to an acceptable harm.

12 What is the economic harm that the St. Johns
13 Riverkeeper believes will be caused by Seminole County's
14 proposed withdrawal of water?

15 A. Well, if it impacts fishery, then that will
16 impact that part of the economy based on the fishery.

17 If it impacts birdwatching or birding, reduces
18 the number of species or the occurrence of birds, that will
19 impact travel and tourism.

20 If it reduces the river's ability to treat
21 pollution that is currently being discharged and it will
22 cause those who are discharging in the river to spend
23 additional monies to treat their wastewater, that's an
24 economic impact.

25 I would say, generally, travel and tourism,

1 ecotourism, the fisheries, potentially boating. If the
2 stage drops, that will impact boating. Potentially impact
3 property values along the river. All of those things lead
4 to what a piece of property is worth. So, I think, in
5 general, those would be some economic impacts.

6 Q. I noticed that in responding to this question,
7 you indicated if it reduces the level of water in the river
8 or potentially if it affects water quality, then it would
9 increase the cost. Do you know for a fact whether Seminole
10 County's proposed withdrawal will cause these economic
11 impacts that you're referring to?

12 A. Just our opinion.

13 Q. And what is your opinion based on? What
14 evidence?

15 A. Logic, I would assume.

16 Q. Okay. And what logic train are you following to
17 come to that opinion?

18 A. Well, I'll give you an example.

19 In this community, people are spending hundreds
20 of millions of dollars to remove nitrogen from wastewater.
21 Based on the amount of flow that's in the river currently,
22 communities have been said -- have been told You will
23 spend -- I'll pull a number -- \$20 million. At the end of
24 the day, if at the end of that \$20 million the river is
25 still -- you know, due to reduced capacity, communities

1 could be told to meet federal standards, that they will have
2 to spend more money.

3 Q. Do you know for a fact that the withdrawal of
4 5.5 million gallons a day will in fact cause these
5 communities to have to withdraw more of their discharges to
6 the river?

7 A. No. I don't know that for a fact.

8 Q. Is there any analysis or studies or reports that
9 you're aware of that conclude that an additional 5.5 million
10 gallons a day will cause these changes that will result in
11 the environmental harm that you've described?

12 A. No, other than the statements that are made in
13 St. Johns River Water Management District reports.

14 Q. And that would be the Technical Staff Report is
15 one of those reports?

16 A. And others.

17 Q. And are there any other reports that you're
18 aware of that specifically address this 5.5 million gallon a
19 day withdrawal?

20 A. No. I've asked the Department of Environmental
21 Protection and the Water Management District, Have you run
22 your models with less water flowing downstream, and so far
23 the answer to that is, No, we have not. So. . .

24 Q. But have you asked them whether or not those
25 models would show any significant changes if you were to

1 diminish the downstream flow by only the 5.5 million gallons
2 a day?

3 A. No, I have not asked. I've asked, in a more
4 general manner, have you looked at those questions.

5 Q. Has your organization looked at that question?

6 A. No.

7 Q. Is there anything that Seminole County could do
8 to reduce this economic harm to an acceptable amount, in the
9 St. Johns Riverkeeper, Inc.'s opinion, other than
10 withdrawing its permit application?

11 A. No.

12 Q. Let's look at 7 j).

13 A. Okay.

14 Q. And it says, Whether the Applicant implemented
15 all available water conservation measures before applying
16 for the Permit.

17 Does the St. Johns Riverkeeper, Incorporated
18 know what water conservation measures are currently being
19 implemented by Seminole County?

20 A. Only what I've heard Mr. Cirello say at
21 meetings.

22 Q. Okay. Beyond --

23 A. Do you want me to specifically say what I --
24 I mean, that would be secondhand information.

25 Q. No. I haven't asked you that question, but I

1 was going to ask you beyond what Mr. Cirello has said at
2 these meetings that you've attended, do you, of your own
3 personal knowledge or the knowledge of your organization,
4 know what current water conservation measures are being
5 implemented by Seminole County?

6 A. No, other than generic, you know, that they have
7 to follow the Water Management District's twice-a-week.

8 I know they have -- again, secondhand, have
9 water conservation pricing.

10 I heard from citizens that they use two water
11 meters, one for in-house, one for outside the house.

12 Q. What additional water conservation measures does
13 the St. Johns Riverkeeper, Incorporated believe that
14 Seminole County should be implementing as an alternative to
15 the proposed withdrawal from the river?

16 A. Certainly landscaping ordinances that reduce the
17 amount of St. Augustine grass that's being planted.

18 Enforcement, better enforcement of current water
19 conservation or water ordinances.

20 Requiring Water Star buildings. In other words,
21 if a home is built, it's built to Water Star standards.

22 I guess those are general. Because what
23 I noticed in the Technical Staff Report, water consumption
24 is at 140 gallons per day and water consumption is expected
25 to be 140 gallons a day in 2025. So based on those numbers,

1 it does not appear that water conservation is being
2 implemented.

3 Q. Okay. If Seminole County were to implement
4 these items that you've just identified, would that result
5 in sufficient water savings that they would not need to
6 withdraw the 5.5 million gallons a day from the river, in
7 the St. Johns Riverkeeper, Incorporated's opinion?

8 A. Well, I'm not an expert, but I think it would
9 move in that general direction.

10 Q. Has the St. Johns Riverkeeper, Incorporated
11 determined whether the implementation of this additional
12 conservation would eliminate the need for the proposed
13 withdrawal from the river?

14 A. Not at this time.

15 Q. Let's look at 7 i) -- or l). I'm sorry. 7 l).

16 A. Oh, Okay. Yes. The water source.

17 Q. Right. Whether the water source will be harmed
18 by the consumptive use.

19 What do you understand is the water source for
20 Seminole County's proposed consumptive use of water?

21 A. Well, the water source in question is the
22 St. Johns River.

23 Q. And the harm that the St. Johns Riverkeeper is
24 alleging will occur to this water source are the ones that
25 you've --

1 A. Yes.

2 Q. -- previously identified in your deposition?

3 A. Yes, sir.

4 MR. WRIGHT: Try to let him finish his question
5 before you answer, please.

6 DEPONENT: Okay.

7 Q. (By Mr. de la Parte) Okay. Let's look at 7 m).
8 Whether the surface level of the water source will be
9 lowered so that stages or vegetation will be adversely
10 affected on lands other than those owned by the Applicant.

11 Do you see that, 7 m)?

12 A. Yes.

13 Q. Is the water source again, that's being referred
14 to here in this allegation, the St. Johns River?

15 A. Yes.

16 Q. And does the St. Johns Riverkeeper, Incorporated
17 believe that Seminole County's proposed consumptive use of
18 water will lower the surface level of the St. Johns River so
19 that stages or vegetation will be adversely affected on
20 lands other than those owned by Seminole County?

21 A. Yes.

22 Q. Do you know what is the greatest drawdown of the
23 surface level of the St. Johns River that will occur as a
24 result of Seminole County's proposed withdrawal?

25 A. The number that's in the Technical Staff Report

1 is I think a tenth of an inch. Is that correct? I believe
2 that's what it is.

3 Q. And is it the St. Johns Riverkeeper,
4 Incorporated's belief that a tenth of an inch reduction in
5 the level of water in the St. Johns River as a result of
6 this withdrawal will adversely affect vegetation on lands
7 not owned by Seminole County?

8 A. Potentially, yes.

9 Q. And on what evidence does the St. Johns
10 Riverkeeper, Incorporated base its conclusion that a tenth
11 of an inch reduction in the surface level of the St. Johns
12 River will result in these adverse effects?

13 A. Because the tenth of an inch, combined with the
14 other cumulative impacts of the withdrawal, will change the
15 system.

16 Q. And what are the other cumulative impacts of the
17 withdrawals that you're referring to?

18 A. Increased salinity, reduced stage.

19 Q. Let me ask you this. Would the tenth of an inch
20 withdrawal, in of itself -- without the effect of salinity
21 and reduction in stage and things of that nature -- be
22 sufficient, in the St. Johns Riverkeeper's opinion, to cause
23 adverse impact?

24 A. Yes.

25 Q. Okay. And what evidence does the St. Johns

1 Riverkeeper, Incorporated rely on for the conclusion that a
2 tenth of an inch reduction, in of itself, would cause a harm
3 to vegetation and stages?

4 A. I think we rely on that we don't know the true
5 impacts of that tenth of an inch from the point of Yankee
6 Lake to the mouth.

7 Q. Okay. Let's turn to 7 n). We're back to
8 existing legal users here. I had asked you previously, with
9 respect to 7 -- let's see if I can find it here -- 7 e),
10 whether the permit will interfere with presently existing
11 legal users, and 7 n) also refers to existing legal users.
12 And I had a series of questions with respect to 7 e), where
13 I had you identify what existing legal users that the
14 St. Johns Riverkeeper felt would be impacted by the proposed
15 withdrawal. Would that list be any different for 7 n)?

16 A. Um. . .

17 Q. If you don't recall, I'll go ahead and ask you
18 questions on it.

19 A. Well, may I hear what I said and then -- or is
20 it. . .

21 MR. WRIGHT: It's probably too far gone.

22 A. (By the Deponent) Yes, the list that I gave
23 you. Will that list suffice?

24 Q. Yes.

25 A. Yes.

1 Q. Okay. Looking at subsection o), whether the
2 Permit will cause a rate of surface water flow to be
3 decreased below a rate of flow to be established pursuant to
4 Chapter 40C-8, F.A.C. Do you see that?

5 A. Yes, sir. O)? Yes

6 Q. Right. When you say -- when the Riverkeeper,
7 Incorporated alleged in this section a rate of flow to be
8 established, did they in fact mean a rate of flow that would
9 be established in the future or one that was already
10 established in Chapter 40C-8?

11 MR. WRIGHT: Do you know?

12 A. (By the Deponent) I don't know.

13 Q. All right. Let me ask it this way. Are you
14 aware of any rate of flow that is to be established in the
15 future, pursuant to Chapter 40C-8, that the Riverkeeper
16 believes the proposed withdrawal would decrease the surface
17 water flow in the St. Johns River below this future
18 established rate of flow?

19 A. I don't know.

20 Q. We had previously gone through 40C-8 and I asked
21 you whether you could identify the established rate of flows
22 that would be affected by Seminole County's proposed
23 withdrawal, and I believe we identified five established
24 Minimum Flows in the St. Johns River. Can you tell me
25 whether any of those five established flows in the St. Johns

1 River would have the rate of surface water flow decreased
2 below those established flows?

3 A. (Pausing).

4 Q. By the proposed withdrawal.

5 A. By the proposed withdrawal. No.

6 Q. Let's look at 7 p).

7 A. Okay.

8 Q. Whether the amount of water allocated for
9 withdrawal by the Permit will cause violation of federally
10 mandated Total Maximum Daily Load levels to be promulgated
11 by the Florida Department of Environmental Protection in
12 late 2008. Do you see that?

13 A. Uh-huh. Yes, I do. And I'm sorry. What was
14 the question?

15 Q. Not yet. I just read it to you. I just want to
16 make sure we're both at the same page.

17 A. Yes. Okay.

18 Q. Is the federally mandated TMDL that is
19 referenced in Paragraph 7 p) the one that DEP is proposing
20 to adopt as a amended rule for the lower St. Johns River
21 basin?

22 A. Yes.

23 Q. Are you aware that Florida Administrative Code
24 Rule 62-304.415 already specifies a TMDL for the lower
25 St. Johns River basin?

1 A. Yes. I mean, are you asking me is there a TMDL?

2 Q. An existing TMDL. Are you aware that there is
3 already an existing --

4 A. Yes. I think that has happened.

5 Q. Are you aware that that there has been an
6 existing TMDL for this lower St. Johns River in effect since
7 2003?

8 A. Yes.

9 Q. Does the St. Johns Riverkeeper believe that
10 Seminole County's proposed withdrawal will affect compliance
11 with the existing -- I'm not talking about the one that's to
12 be adopted in the future, but the existing TMDL?

13 A. We don't know.

14 Q. What evidence does the St. Johns Riverkeeper
15 rely on for its belief that the proposed 5.5 million gallon
16 a day withdrawal will cause a violation of the TMDL that is
17 to be established by DEP sometime in late 2008?

18 A. The TMDL has been based on a model and, as
19 I mentioned earlier, the DEP has not run that model again
20 with any additional withdrawals.

21 Q. Do you know whether they have run the model with
22 any withdrawals?

23 A. I know they have run the model with the, quote,
24 average flow of the river as it is prior to, but, no,
25 I don't know that for a -- I don't know to what extent.

1 Q. Have you or your organization attempted to run
2 that model with the proposed 5.5 million gallon a day
3 withdrawal?

4 A. No.

5 Q. All right. Let's look at Subsection 8 -- or
6 Paragraph 8. I'm sorry. It says, The District maintains
7 the proposed Permit is an "Alternative Water Supply" (AWS)
8 project. Petitioner disputes that the proposed Permit
9 utilizes surface water withdrawals consistent with the
10 statutory definition of AWS.

11 What is there about the proposed withdrawal by
12 Seminole County that is inconsistent with the definition of
13 an Alternative Water Supply?

14 A. Frankly, I don't know what Section 373.019 --
15 I don't know what that says.

16 Q. Have you ever read it before?

17 A. It's been awhile, but, yes.

18 Q. Okay. Chapter 373, if you turn to Page 7. . .

19 A. (Obliging).

20 Q. . . there should be 373.019, Subsection (1).
21 Do you see that, definition of Alternative Water Supply?

22 A. Yes.

23 Q. And just for the record, it defines Alternative
24 water supplies as salt water; brackish surface and
25 groundwater; surface water captured predominantly through

1 the addition of new storage capacity for surface or
2 groundwater; water that has been reclaimed after one or more
3 public supply, municipal, industrial, commercial or
4 agricultural uses; the downstream augmentation of water
5 bodies with reclaimed water; stormwater; and any other water
6 supply that is designated as nontraditional for a water
7 supply region in the applicable regional water supply plan.

8 A. Yes.

9 Q. Have you read that definition --

10 A. Yes.

11 Q. -- prior to your reading it now?

12 A. Yes, I have.

13 Q. Would the St. Johns Riverkeeper, Incorporated
14 agree that brackish surface water would fall within the
15 definition of alternative water supplies?

16 A. The question again? Would I agree. . .

17 MR. de la PARTE: Go ahead and read it, please.

18 (Pending question read back by court reporter).

19 A. (By the Deponent) What's the definition of
20 brackish surface water?

21 Q. I haven't asked you that question yet. I'm just
22 saying looking at the statute and looking at the words of
23 the statute, would you agree that brackish surface water
24 would fall within the definition of an alternative water
25 supply?

1 A. Yes.

2 Q. Okay. Does the St. Johns Riverkeeper have an
3 opinion as to what constitutes brackish, for purposes of
4 surface water?

5 A. I'm not an expert, but I would say, just by the
6 definition of brackish, it would be water that has some salt
7 content.

8 Q. Do you know what salt content would make it
9 brackish?

10 A. No.

11 Q. Would the St. Johns Riverkeeper agree that
12 sources of water made available through the addition of new
13 storage capacity for surface or groundwater would fall
14 within the definition of alternative water supply?

15 A. According to this, yes.

16 Q. You don't dispute that, do you?

17 A. No.

18 Q. Would the St. Johns Riverkeeper agree that
19 stormwater would fall within the definition of alternative
20 water supply?

21 A. Yes.

22 Q. Would the St. Johns Riverkeeper agree that any
23 other water supply source that is designated as
24 nontraditional for a water supply region in the applicable
25 regional water supply plan would fall within the definition

1 of alternative water supply?

2 A. Yes, according to this definition.

3 Q. Are you aware that the St. Johns River Water
4 Management District has designated surface water withdrawals
5 from the St. Johns River as nontraditional for the central
6 Florida water supply planning area in their regional Water
7 Supply Plan?

8 A. Yes.

9 Q. Would you agree, then, that under that
10 definition, surface water withdrawals from the St. Johns
11 River would constitute alternative water supplies?

12 A. If you believe the Water Management District has
13 designated that, yes.

14 Q. Are you aware that the St. Johns River Water
15 Management District passed their last regional Water Supply
16 Plan, the 2005 plan, in early 2006?

17 A. Yes.

18 Q. Were you aware that that Water Supply Plan
19 identified several projects along the St. Johns River for
20 the withdrawal of surface water as alternative water
21 supplies?

22 A. Yes.

23 Q. Did your organization appear at the St. Johns
24 River Water Management District Governing Board meeting in
25 February 2006 to protest?

1 A. No.

2 Q. Are you aware that the St. Johns River Water
3 Management District updates the list of alternative water
4 supply projects identified in that regional Water Supply
5 Plan on an annual basis?

6 A. Yes.

7 Q. Are you aware that they did that in 2007?

8 A. Yes.

9 Q. Did your organization object to the updated list
10 of alternative water supply projects in 2007?

11 A. No.

12 Q. Are you aware that they updated that list in
13 2008?

14 A. I think March of this year, yes.

15 Q. Did your organization object to the revised list
16 of alternative water supply projects in that update?

17 A. I believe we did, but I'll have to check. I'm
18 not sure.

19 Q. Why did your organization elect to object to the
20 update in 2008, but not object to the original projects
21 identified in the 2005 Water Supply Plan and the other
22 subsequent annual updates?

23 A. I guess I would describe that as we're becoming
24 more aware of the significance of these decisions.

25 Q. Okay. Let me ask you to turn to Paragraph 14.

1 DEPONENT: Actually, I'd like a 10-minute break.

2 MR. de la PARTE: Sure. No problem.

3 (Recess taken 12:24 to 12:34 PM).

4 Q. (By Mr. de la Parte) Let's look at Paragraph 14
5 of County Exhibit No. 2. This is the paragraph that says
6 that, The District has failed to adopt minimum flows and
7 levels for the St. Johns River watercourse as required by
8 Section 373.042. . . Do you see that paragraph?

9 A. Yes, sir, I do.

10 Q. Isn't it correct that in fact the District has
11 established five Minimum Flows in the St. Johns River?

12 A. Yes. They have adopted five Minimum Flows.

13 Q. Okay. So this statement in the first sentence,
14 that the District has failed to adopt minimum flows and
15 levels for the St. Johns River, is incorrect, isn't it?

16 A. No. They have not established an MFL for the
17 entire St. Johns River. They've established MFLs for
18 segments of the river.

19 Q. So this statement in the first sentence in
20 Paragraph 14 was not, in the St. Johns Riverkeeper's mind,
21 intended to reflect that the District has not established
22 any Minimum Flows and Levels in the St. Johns River; is that
23 correct?

24 A. Speaking as a non-attorney, my understanding and
25 I think my belief is they have not established MFLs for the

1 entire St. Johns River.

2 Q. But you would agree that they have, in fact,
3 established Minimum Flows and Levels for portions of the
4 St. Johns River.

5 A. Segments of the river. I would agree to that.

6 Q. And you would agree that they have established
7 Minimum Flows for the portion of the river upstream of State
8 Road 44; is that correct?

9 A. That segment of the river, yes.

10 Q. What other segments of the river does the
11 Riverkeeper believe require Minimum Flows be established by
12 the St. Johns River Water Management District?

13 A. Again, speaking as not an attorney, I would like
14 to see an MFL for the entire length of the river.

15 Q. You want to see one MFL for the entire length of
16 the river or MFLs downstream of State Road 44?

17 A. An MFL for the entire St. Johns River.

18 Q. Just give me a second.

19 A. Sure.

20 Q. Let's look at County Exhibit No. 1, which is
21 your Notice of Deposition.

22 A. Okay.

23 Q. Let's look at Paragraph 2.

24 A. Is that Page 2?

25 Q. Starts at Page 2 and it goes on to Page 3.

1 A. Okay.

2 Q. It says there are allegations in your Petition
3 and Interrogatory Answers that certain members of the
4 Riverkeeper have used and will use the St. Johns River for
5 boating purposes.

6 A. Uh-huh.

7 Q. Let's talk about the Riverkeeper first.

8 A. Sure.

9 Q. How does the Riverkeeper, as an organization,
10 use the St. Johns River for boating purposes?

11 A. Well, we have a boat that we use. We organize
12 and sponsor many boat trips. For example, currently it's a
13 little warm, so we have a family boat trip once a month.
14 When it cools off, we will probably expand those to twice a
15 month.

16 We have boat trips for community groups. We've
17 taken groups like the symphony out, garden clubs, schools,
18 chambers of commerce. We partner with different groups to
19 take people out and educate them about the river while we're
20 on the river.

21 As I mentioned earlier, we have three-day boat
22 trips.

23 We have organized kayak trips for our
24 membership.

25 We have organized walking trips along the

1 St. Johns River.

2 I guess, in a general sense, that covers it.

3 Q. Okay. Let's go through the ones that you
4 identified. First of all, the family boat trips. What do
5 you mean by a family boat trip?

6 A. That is a boat trip where a family of four -- up
7 to a family of four can meet on a Saturday, a parent and two
8 children or a parent and one child. They board the boat
9 very close to here, Friendship Fountain, and we travel for
10 two hours in the river, up the Ortega River. And during
11 that time, we have activities for young people, educate
12 people about the ecology, the history, the culture of the
13 river.

14 Q. And you said these family boat trips take place
15 usually once a month?

16 A. Currently, right now.

17 Q. And then when it gets cooler, you try to do them
18 twice a month; is that correct?

19 A. Yes. Maybe more. We're increasing that.

20 Q. Do these family boat trips go upriver outside of
21 Duval County?

22 A. On rare occasions, they do.

23 Q. Do they -- I don't know what the next County is.

24 A. Oh, St. Johns County?

25 Q. Yes.

1 A. We have had trips that we travel to St. Johns
2 County, so that would be south of the Buchman Bridge to
3 somewhere around Six-Mile Creek, Trout Creek.

4 Q. Have any of these family boat trips been further
5 upstream beyond Six-Mile Creek?

6 A. No. Those have not.

7 Q. Okay. Then you --

8 A. But. . .

9 Q. I'm sorry. Go ahead. I'm sorry.

10 A. But we have had boat trips, for example, where
11 we took people for boat trips in Palatka. As part of the
12 River Festival, we did four boat trips. So on occasions,
13 depending on the need and the group we're sponsoring or
14 partnering with. But other than the three-day trip, that
15 would be as far south as we've gone, is Palatka, Florida.

16 Q. So just to cut it short, then, other than the
17 three-day boat trips, the furthest south that you, as an
18 organization, take boat trips on has been to Palatka.

19 A. Yes, sir.

20 Q. And how often do you have these three-day boat
21 trips?

22 A. We have those twice in the spring and twice in
23 the fall.

24 Q. And it takes three days to go from Jacksonville
25 to Sanford?

1 A. We spend -- we leave here -- for example, the
2 upriver trip, we would leave here on a Tuesday morning,
3 spend the night in Palatka, travel to Astor, spend the night
4 there, and then arrive in Sanford on Thursday afternoon
5 about 4:30, 5:00 o'clock.

6 Q. And then you would turn around and go back.

7 A. Then a group of people will meet us and then we
8 head downstream. Same trip, but backwards.

9 Q. And so this takes place usually during a month
10 in spring or a month in fall?

11 A. April, May, October, November.

12 Q. And so when you say you have twice in the spring
13 and twice in the fall, does that -- when you refer to twice,
14 does that mean one trip up and one trip down?

15 A. Right. Exactly.

16 Q. So you have essentially four trips a year?

17 A. A year.

18 Q. And how often has the St. Johns Riverkeeper had
19 these four trips a year?

20 A. We started in spring of 2003. At that time, we
21 only did one trip. We would leave from Sanford and come
22 back. So in 2003, we had a trip. In the fall of 2003, we
23 had a trip. And then starting in 2004, we began to not take
24 the boat down empty, but take it down full and return it
25 full.

1 Q. And you've been doing that since 2004?

2 A. 2000 -- yes, yes.

3 Q. And do you have any plans to expand these boat
4 trips in the future? And I'm talking about the three-day
5 trip.

6 A. Not expand them. Probably continue them.

7 Q. Is there any possibility that these boat trips
8 will be discontinued in the future?

9 A. There's always possibilities, because there's
10 only two places to stay on the river, one of which is always
11 for sale, so, but. . .

12 Q. Which one is the one that's always for sale?

13 A. The Blair's Jungle Den. It's a standing offer
14 to buy. I don't know if -- you've probably not been to
15 Blair's, but. . .

16 Q. Is that in Astor?

17 A. Yes. It's in Volusia County and Lake County is
18 on the opposite bank.

19 Q. And if I understand it correctly, if that
20 particular venue is sold, then it may not be possible to do
21 the three-day boat trip?

22 A. It will be possible, but probably not in the
23 numbers that we do. There are other small accommodation.

24 Q. How many people go on these three-day boat
25 trips?

1 A. Varying numbers. In preparation for this, we
2 have taken over 1,000 people on those trips.

3 Q. And, so, that's over 1,000 people from 2003 to
4 2008?

5 A. The spring of 2008, yes. We've taken 20 trips
6 total.

7 Q. Have you been unable to complete any of these 20
8 trips because of a decline in water levels in the river or
9 some sort of reduction in flow in the river over the past
10 five or six years?

11 A. There have been places we have been unable to go
12 to visit because of decline, you know. For example, we
13 visit springs and sometimes if water levels are low, we
14 cannot -- can't get in, can't pull up.

15 Q. What I'm asking you is have any of these
16 three-day boat trips, as you've described them, going from
17 Jacksonville to Sanford and then returning from Sanford to
18 Jacksonville, ever been cancelled or delayed or --

19 A. No, no.

20 Q. -- eliminated because of --

21 A. Not the actual trip, no, but components of the
22 trip have been altered.

23 Q. And what components of the trip have been
24 altered?

25 A. Like I said, we have not been able to -- if we

1 go to Silver Glen Springs, for example, if the water levels
2 are low, we cannot allow people to get off the boat and get
3 into the spring. Same way with Blue Springs. If the water
4 is low, it limits where the boat can park.

5 Q. And when has the water been that low at Blue
6 Springs that you were unable to do that?

7 A. I'd have to go back and look at boat logs. I'd
8 have to get with the captain. In the 20 trips, it's hard to
9 say. I could -- that information is available.

10 Q. How about the last boat trip that you took --

11 A. No. Well, the water was low. We were able
12 to. . . At Silver Glen, it was extremely low, but we were
13 able to, with a ladder, get people on and off the boat.

14 Q. In 2008?

15 A. Yes.

16 Q. Is it the St. Johns Riverkeeper position that a
17 1/10 of an inch reduction in the level of water in the
18 St. Johns River, due to Seminole County's withdrawal, will
19 prohibit you from taking any of these three-day boat trips?

20 A. I think our contention is it will diminish the
21 value of the trips.

22 Q. Well, let's talk first about the physical
23 capability of conducting the trip. Is it your position that
24 a 1/10 of 1 inch reduction in the level of water will
25 prevent you from taking any of these boat trips?

1 A. I'd have to talk to the captain, the boat owner.

2 Q. What other impacts from the proposed withdrawal
3 is the St. Johns Riverkeeper concerned that will affect
4 these three-day boat trips?

5 A. A lot of the people that take the trips are
6 birders and if birding is diminished, it will be less
7 attractive to that segment of people. There are people who
8 fish on the trips. There are people who enjoy the wetland
9 area, enjoy the aesthetics of the river. If those are
10 damaged, it could potentially impact people's willingness to
11 go on a trip.

12 Q. And has the St. Johns Riverkeeper determined,
13 through analysis or study, that birding will be diminished
14 or fishing will be reduced or the aesthetics of the river
15 will be adversely affected by the proposed withdrawal?

16 A. Have we done a study?

17 Q. Or analysis.

18 A. No.

19 Q. And so --

20 A. Other than our own analysis and our own opinion.

21 Q. And is that opinion based on any scientific
22 study or scientific analysis as to what the effect of the
23 proposed withdrawal will be on birding, fishing, and
24 aesthetics?

25 A. I would say, first and foremost, it's based on

1 20 trips and then based on the information the St. Johns
2 River Water Management District has published.

3 Q. Anything beyond that?

4 A. No.

5 Q. Does the St. Johns Riverkeeper, Incorporated
6 keep a record of individual boat trips taken by its members?

7 A. No, sir.

8 Q. So you do not know what boat trips your 1,000 or
9 so members have taken?

10 A. No. I'd say the majority of our members have
11 boats, but, no, we do not -- they don't report to us when
12 they go out in the river.

13 Q. Have any of your members reported to you what
14 they believe are adverse impacts to their ability to boat on
15 the river due to surface water withdrawals? I'm talking
16 about existing withdrawals.

17 A. No. Anecdotally, we hear that water levels are
18 low. There are some tributaries that depending on water
19 levels, you may be able to get your boat out, but you're out
20 for 12 hours and then you come back on high tide.

21 Q. Have any of your members reported problems in
22 boating up in the Seminole County area or portion of the
23 St. Johns River?

24 A. No.

25 Q. Let me ask you to turn to item No. 3 in the

1 Notice. That's starting on Page 3.

2 A. Yes.

3 Q. Let's talk first about the Riverkeeper,
4 Incorporated. Do you fish the river commercially?

5 A. Some of our members do.

6 Q. How about the organization itself?

7 A. No.

8 Q. Does the organization -- is the only fishing
9 that the organization does as a group the fishing that takes
10 place on these boat trips that you sponsor?

11 A. No. I mean, a large group of our members are
12 recreational fishermen.

13 Q. Have any of your members who are the commercial
14 fishermen supplied you with any information indicating an
15 adverse economic impact to their commercial fishing as a
16 result of surface water withdrawals from the water?

17 A. You're talking about current withdrawals.

18 Q. Yes.

19 A. The 29-plus. No.

20 Q. Have any of your members supplied you
21 information indicating adverse impact to recreational
22 fishing from current withdrawals, surface water withdrawals
23 from the river?

24 A. No.

25 Q. Have any of your members indicated to you any

1 anticipation of adverse impact to either commercial or
2 recreational fishing as a result of the proposed 5.5 million
3 gallon a day withdrawal?

4 A. Yes.

5 Q. And have any of them supplied you any studies,
6 analyses, or reports to back up those concerns?

7 A. No.

8 Q. Let's look at item No. 4. I think that you've
9 identified that your members enjoy the river because a lot
10 of them are birdwatchers and they observe birds. Is there
11 anything -- are there any other wildlife species that they
12 observe or take advantage of in enjoying the river?

13 A. Well, we have West Indian manatees that are here
14 this time of year and they're here because there's a food
15 supply. We have a large bird population. The second
16 largest breeding population of bald eagles is in this
17 watershed. Birders are an interesting lot, so they all have
18 specific species that they enjoy watching.

19 Q. Have any of your members expressed concern that
20 existing surface water withdrawals have affected their use
21 and enjoyment of wildlife, including the birds on the river?

22 A. Yes.

23 Q. And I'm talking about existing withdrawals.

24 A. Oh. No. No.

25 Q. Have they expressed concern that Seminole

1 County's proposed withdrawal would interfere with their use
2 and enjoyment of wildlife on the river?

3 A. Yes.

4 Q. And again, have they supplied you with any
5 studies --

6 A. No.

7 Q. -- or information to document this concern?

8 A. No. Opinion.

9 Q. Aside from boat trips, fishing, use and
10 enjoyment of wildlife, is there any other use that either
11 the Riverkeeper, as an organization, or its members make of
12 the river?

13 A. There are members of ours who, for example, are
14 outfitters and they use the river as an economic -- they
15 take kayak trips on the St. Johns River or they sell kayaks
16 for people to use on the river or on its tributaries. So
17 there are members of ours who, in effect, business depends
18 on the river.

19 Q. Have any of those members expressed -- provided
20 you information indicating that their economic use of the
21 river has been adversely affected by existing withdrawals?

22 A. No.

23 Q. Have they expressed concern that Seminole
24 County's 5.5 mgd withdrawal would adversely affect those
25 uses?

1 A. Yes.

2 Q. And again, have they supplied --

3 A. No.

4 Q. -- you with any information, data, or studies to
5 substantiate those concerns?

6 A. No.

7 Q. Do your members use the river for swimming?

8 A. Yes. There are -- we have members who -- we
9 have members who every Wednesday water ski in the Ortega
10 River. We have people who swim in the tributaries.

11 Q. How about anybody that swims in the river up in
12 Seminole County? Do you have any members who do that?

13 A. A few.

14 Q. Have any of those members who use the river for
15 swimming indicated to you they've been unable to swim or
16 their swimming use of the river has been degraded as a
17 result of existing withdrawals?

18 A. No.

19 Q. Have any of those members expressed concern that
20 Seminole County's proposed 5.5 million gallons a day would
21 interfere with their swimming use of the river?

22 A. I think a more accurate term would be the use of
23 the river. I don't know if I would specifically say
24 swimming.

25 Q. Have they provided you any studies or reports or

1 analyses to back up that concern?

2 A. No, sir.

3 Q. Do some of your members use the river for
4 shrimping?

5 A. Yes.

6 Q. What portion of the river do they use for
7 shrimping?

8 A. The estuarine section. There are people who
9 shrimp as far south as Julington Creek; potentially Green
10 Cove Springs.

11 Q. Anything further south than that, that you're
12 aware of?

13 A. As generally the salinities are increasing, and
14 so there were -- I've talked to people who shrimped in
15 Palatka last year.

16 Q. Anything further south than Palatka?

17 A. That's as far south as I've heard reports.

18 Q. Have any of those individuals, commercial
19 shrimpers, indicated to you that they believe that their
20 shrimping activities have been adversely affected by
21 existing groundwater withdrawals?

22 A. No.

23 Q. Have any of these commercial shrimpers expressed
24 concern that Seminole County's proposed 5.5 million gallon a
25 day withdrawal would adversely affect those shrimping

1 activities?

2 A. Yes.

3 Q. And did they supply you with any studies,
4 reports, or analyses to back up that concern?

5 A. No, sir.

6 Q. Give me one second.

7 A. Sure.

8 MR. de la PARTE: Let's go ahead and mark this
9 as exhibit.

10 (County Exhibit No. 3 so marked).

11 Q. (By Mr. de la Parte) I've handed you a document
12 that has been marked as County Exhibit No. 3, which is
13 identified at the top as St. Johns Riverkeeper Budget. Have
14 you previously seen this document?

15 A. Have I seen this document you've handed me?

16 Q. Uh-huh.

17 A. No.

18 Q. Are you familiar with the budget and financial
19 reports of the St. Johns Riverkeeper?

20 A. In general terms, yes. I'm not the business end
21 of the organization.

22 Q. Who is the business end of the organization?

23 A. That would be Jimmy Orth. He's the Executive
24 Director.

25 Q. Are you aware that the St. Johns Riverkeeper has

1 alleged in its Petition for Administrative Hearing that it
2 would be economically injured if Seminole County's proposed
3 consumptive use of water were to be approved?

4 A. Yes.

5 Q. Has it been your understanding that the revenue
6 that the St. Johns Riverkeeper has both budgeted and
7 collected has steadily increased from 2000 through 2007?

8 A. Yes.

9 Q. Isn't it correct that for 2008, the St. Johns
10 Riverkeeper has budgeted a total income of \$521,500?

11 A. Yes.

12 Q. Has there been any actions that have taken place
13 in the river, in the period of time between 2000 and 2008,
14 that have economically injured the St. Johns Riverkeeper, to
15 your knowledge?

16 A. Would you -- I'm sorry. I didn't understand the
17 question.

18 MR. de la PARTE: Could you repeat it?

19 (Pending question read back by court reporter).

20 A. (By the Deponent) To my knowledge, no.

21 Q. Looking at the budget for 2008 -- do you see
22 that?

23 A. Yes.

24 Q. It shows that of the \$521,500, as projected as
25 revenue, that 100,000 of that is due to membership dues; is

1 that correct?

2 A. That's correct.

3 Q. 105,000 is due to donations; is that correct?

4 A. Yes.

5 Q. And \$115,000 is due to grants.

6 A. Yes.

7 Q. And the portion of the budget that is due to
8 activities that the St. Johns Riverkeeper actually does is
9 the Special Events section, which is 175,000; is that
10 correct?

11 A. According to this, yes.

12 Q. And of that 175,000, there is a column reported
13 for Spring Boat Trip 1 and Spring Boat Trip 2. Do you see
14 \$20,000 each?

15 A. Yes, yes.

16 Q. And I don't see a Fall Boat Trip 1 or a Fall
17 Boat Trip 2 on it, but is that generally what you all make
18 from these three-day boat trips, is \$20,000 for each of the
19 boat trips?

20 A. I'd have to look at the financials.

21 Q. But is that around the ballpark?

22 A. Speaking as the non-business end, I'd say it's
23 the ballpark.

24 Q. So of the four three-day boat trips that you
25 indicated where you go from Jacksonville to Sanford and back

1 again, assuming that 20,000 is what you collected for each
2 boat trip, that would be about \$80,000?

3 A. Yeah. Based on these projections, yes.

4 Q. Right. And then it also has the 2007 budget,
5 where there was also projections of, what, \$22,000, if you
6 look at the column to the right?

7 A. Uh-huh.

8 Q. So of the \$521,000 that is projected as total
9 revenue for the St. Johns Riverkeeper in 2008, then
10 approximately only 80,000 would be due to these three-day
11 boat trips, correct?

12 A. Based on these numbers, yes.

13 Q. Has your membership dues -- or the membership
14 revenue increased every year since 2000?

15 A. I'd have to look at these numbers. I've been
16 here since 2003, so, yes, I think you could say that, based
17 on these numbers.

18 Q. And have the donations that you've had
19 increased -- and I'm talking about the actual donations --
20 increased every year since 2003, since you've been here?

21 A. According to this, yes.

22 Q. These grants that are referenced in this budget,
23 what exactly is the nature of the grants that the St. Johns
24 Riverkeeper is receiving?

25 MR. WRIGHT: Are we -- I'm going to object,

1 because I think we're getting beyond what's been
2 requested of this witness to answer with respect to
3 this deposition.

4 MR. de la PARTE: I indicated the allegations of
5 the Petition and they allege that there's going to be
6 economic harm as a result of this, and so --

7 MR. WRIGHT: Well, economic harm doesn't relate
8 to grants.

9 MR. de la PARTE: Well, in order to determine
10 the nature and the significance of the economic harm,
11 I need to find out exactly what the economic situation
12 is of the Riverkeeper.

13 MR. WRIGHT: I think economic harm depends upon
14 whether they've been hurt in any way. I'll go ahead
15 and let him answer the question. It's getting pretty
16 far afield.

17 Q. (By Mr. de la Parte) What are the nature of the
18 grants that the St. Johns Riverkeeper receives?

19 A. In general terms, some are individuals, some are
20 family foundations, some are foundations, some are
21 businesses.

22 Q. In the list of Special Events that are listed on
23 the budget for 2008, I see that there is a Oyster Roast
24 event. What's the Oyster Roast?

25 A. Well, that's a fundraiser we have in the fall

1 where people gather next to the river and we eat oysters and
2 shrimp and have a good time.

3 Q. Okay. Do the oysters and the shrimp come from
4 the river?

5 A. The oysters come from Apalachicola and there
6 have been times that shrimp were actually caught from the
7 St. Johns River and used at the event.

8 Q. But you don't know for a fact whether the
9 oysters that are used at this event come from the St. Johns
10 River, do you?

11 A. No. I don't think so, but I can't speak to
12 that.

13 Q. And what's the Low Country Boil?

14 A. That was something that we had early on, that is
15 no longer. That was I think in another era,
16 Mr. de la Parte.

17 Q. So there's nothing indicated as being a source
18 of revenue for this year.

19 A. Right, right. It's a budget item that's carried
20 over, but we don't -- the Oyster Roast, I guess you could
21 say, has superseded that.

22 Q. And if you look down in the budget, in the
23 Expense portion, there are costs associated with the boat
24 trips. Do you see that?

25 A. Yep.

1 Q. \$12,000 are budgeted for the two spring boat
2 trips. Do you see that?

3 A. Uh-huh.

4 Q. Does that mean, then, that the net profit that
5 the Riverkeeper would make from the -- from each of these
6 boat trips is approximately \$8,000?

7 A. I think it varies from trip to trip, but using
8 those numbers, you would be safe to make that assumption.

9 Q. I notice also, if you look further down in the
10 Expense column where it says Boat Operations, there is
11 equipment, storage, maintenance, fuel, and so on. Are any
12 of that overhead something that is taken into account in
13 determining the profitability of these three-day boat trips?

14 A. No. That is the Kingfisher. That's a separate
15 boat. That's our boat.

16 Q. And what does the Riverkeeper use the Kingfisher
17 for?

18 A. Patrolling; responding to pollution events;
19 sometimes taking people out into the river; sometimes for
20 special events; just generally part of our normal function
21 of having a presence in the river.

22 Q. I notice that in looking at this budget for
23 2008, that there isn't revenue or expenses listed for the
24 fall boat trips.

25 A. Right.

1 Q. And why is that the case?

2 A. Basically, because of why we're sitting here
3 right now. We're not sure we're going to have staff to
4 staff it because of this issue.

5 Q. So you're saying because of the fact that the
6 administrative hearing is scheduled for the fall, that the
7 people that normally would be --

8 A. Well, I've been on every trip. I'm not sure I'm
9 going to -- it's kind of hard to schedule something if you
10 don't know. So, we haven't made the final call. That's
11 just something, you know, we're in the process of discussing
12 right now.

13 Q. Have boat trips been cancelled in the past for
14 hearings or other conflicting events, as they may be this
15 year?

16 A. No.

17 Q. Has the Riverkeeper put together any sort of
18 budget analysis that looks at the kind of economic harm that
19 it believes it would receive if the Seminole County
20 Consumptive Use Permit were to be issued?

21 A. No.

22 Q. And when does the Riverkeeper usually put
23 together its budgets?

24 A. We start in the fall and then finalize usually
25 in winter, February, sometimes April, depending on --

1 Q. When was the 2008 budget finalized this year?

2 A. I don't know that.

3 Q. Would it have been finalized in the same manner
4 that it had been finalized in prior years?

5 A. I don't know the answer to that,
6 Mr. de la Parte.

7 Q. Has there been any revisions to the proposed
8 budget for 2008 as a result of the proposed issuance of a
9 Consumptive Use Permit to Seminole County?

10 A. I'm not sure.

11 MR. de la PARTE: Give me a five-minute break.

12 I think we're almost finished.

13 (Recess taken 1:15 to 1:19 PM).

14 Q. (By Mr. de la Parte) Are you aware of any
15 update or revision to this budget for 2008, that we've
16 marked as County Exhibit No. 3?

17 A. I personally am not aware.

18 Q. And as far as you know, then, this represents
19 the most up-to-date budget for 2008 for the St. Johns
20 Riverkeeper?

21 A. Again, I preface by saying that I'm aware of.

22 MR. de la PARTE: I don't have any further
23 questions.

24 MR. SMITH: I have no questions of this witness.

25 MR. WRIGHT: The Riverkeeper has no questions.

1 MR. FRAZIER: Just a brief follow-up.

2 CROSS-EXAMINATION

3 BY MR. FRAZIER:

4 Q. Who is Mr. Cirello?

5 A. He's the Director of Utilities for Seminole
6 County. Mr. de la Parte might be able to tell you his
7 official title.

8 Q. What can you recall him reporting to you about
9 conservation efforts made by Seminole County?

10 A. I'm sorry, Seann. Would you --

11 Q. Sure. I think I've got your testimony to
12 Mr. de la Parte as being you heard Mr. Cirello state at
13 meetings some water conservation measures currently being
14 implemented by Seminole County.

15 A. Right.

16 Q. What measures do you remember him reporting?

17 A. I believe -- and again, this is secondhand --
18 but conservation pricing, increasing reuse, and I've heard
19 him mention that they have two different meter types.

20 Q. You also mentioned that you believe Mr. Cirello
21 reported that Seminole County is following the District's
22 two-times-a-week watering restriction. What is the
23 District's two-times-a-week watering restriction?

24 A. Well, it's you should only water twice a week
25 and it's not -- it doesn't -- they don't enforce that. They

1 leave that to local jurisdictions to enforce, but that's
2 their It Takes Two program.

3 Q. I'm sorry. Are you saying it takes two, both a
4 program and its enforcement?

5 A. No, no. I'm sorry. I'll try to focus.

6 Q. Long morning.

7 A. The program is called It Takes Two. In general
8 terms, what the District is telling all of us is you should
9 only water twice a week. They are not to the level of
10 specificity where they'll say Seann you can water on Tuesday
11 or Saturday, but they're moving towards that. So in other
12 words, it is a program, but there is no enforcement from the
13 Water Management District.

14 MR. FRAZIER: I have no other questions. Thank
15 you.

16 MR. WRIGHT: No questions. Anybody else have
17 any additional?

18 MR. de la PARTE: We'll order the original and a
19 copy. And I assume he's reading and signing, correct?

20 MR. WRIGHT: Yes.

21 MR. de la PARTE: And just to be clear, we'll be
22 doing the same for all our witnesses unless we advise
23 you differently.

24 COURT REPORTER: Does anybody wish to purchase a
25 copy of this transcript?

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MR. WRIGHT: Not right now.

MR. FRAZIER: If you could give me a card.

COURT REPORTER: Sure.

(THE FOREGOING DEPOSITION CONCLUDED AT 1:22 PM).

CERTIFICATE OF REPORTER

STATE OF FLORIDA :

COUNTY OF HILLSBOROUGH :

I, Patricia Tomory Halliday, Court Reporter,

DO HEREBY CERTIFY that I stenographically reported the foregoing proceedings at the time and place so designated and that the foregoing pages are a true and correct, verbatim record of the proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of any attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 12th of August 2008.

PATRICIA TOMORY HALLIDAY
Professional Court Reporter

CERTIFICATE OF OATH

STATE OF FLORIDA :

COUNTY OF HILLSBOROUGH :

I, Patricia Tomory Halliday, Notary Public, State of Florida at Large, do hereby certify that the witness herein personally appeared before me and was duly sworn.

Witness my hand and official seal this 12th day of August 2008.

PATRICIA TOMORY HALLIDAY
Notary Public, State of Florida

DEPOSITION TRANSCRIPT ERRATA SHEET
PAGE 1 OF _____

IN RE: St. Johns Riverkeeper, Inc. Vs. St. Johns River
Water Management District and Seminole County, et al
DEPOSITION OF: NEIL ARMINGEON
TAKEN: July 28, 2008
REPORTED BY: Patricia Tomory Halliday

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