

OCT 01 2007



An Equal Opportunity Employer

# Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899  
(352) 796-7211 or 1-800-423-1476 (FL only)  
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)  
On the Internet at: WaterMatters.org

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)  
SUNCOM 572-6200

**Lecanto Service Office**  
Suite 226  
3600 West Sovereign Path  
Lecanto, Florida 34461-8070  
(352) 527-8131

**Sarasota Service Office**  
6750 Fruitville Road  
Sarasota, Florida 34240-9711  
(941) 377-3722 or  
1-800-320-3503 (FL only)  
SUNCOM 531-6900

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)  
SUNCOM 578-2070

- Judith C. Whitehead**  
Chair, Hernando
- Neil Combee**  
Vice Chair, Polk
- Todd Pressman**  
Secretary, Pinellas
- Jennifer E. Closshey**  
Treasurer, Hillsborough
- Thomas G. Dabney**  
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- Patricia M. Glass**  
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- Heidi B. McCree**  
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- Ronald E. Oakley**  
Pasco
- Sallie Parks**  
Pinellas
- Maritza Rovira-Forino**  
Hillsborough
- Patsy C. Symons**  
DeSoto
  
- David L. Moore**  
Executive Director
- William S. Bilensky**  
General Counsel

September 26, 2007

Mr. Ron Baxley  
Century – Fairfield Village, Ltd.  
500 South Florida Avenue, Suite 700  
Lakeland, FL 33813

Subject: **CONSENT ORDER NO. SWF 07-51**  
WUP No. 20008005.003/CT No. 138956  
Marion County

Dear Mr. Baxley:

Enclosed for your records is a copy of the fully executed Consent Order No. SWF 07-51, which was approved by the District's Governing Board on September 25, 2007. Your check for \$8,861.02 for full payment of penalties and enforcement costs has been received. Please also note the additional Corrective Actions outlined in the Consent Order and the time limits applicable to those Corrective Actions.

Thank you for your cooperation in resolving this matter. If you have any questions regarding this matter, please contact me at the District's Brooksville Headquarters at extension 4660.

Sincerely,

*Adrienne E. Vining*  
Adrienne E. Vining  
Staff Attorney

AEV/bdm

Enclosures

cc: H. Robert Lue, P.E.  
Paul Williams, P.G.  
File of Record  
Maggie Daniels

Len Tabor  
Enviro-Masters  
2609 SW 33<sup>rd</sup> Street, Suite 102  
Ocala, FL 34478

W. Murray Blackman, P.E.  
DNM Engineering & Associates, Inc.  
P.O. Box 42  
Ocala, FL 34478

070548

RECEIVED-FPSC  
07 OCT -5 PM 4:07  
COMMISSION CLERK

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
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- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SGA \_\_\_\_\_
- SEC \_\_\_\_\_
- OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE  
09164 OCT-5 07  
FPSC-COMMISSION CLERK

BEFORE THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
ORDER NO. SWF 07- 51

IN RE: CENTURY-FAIRFIELD VILLAGE, LTD.  
WUP No. 20008005.003 / CT No. 138956  
MARION COUNTY, FLORIDA

CONSENT ORDER

Pursuant to Sections 120.57(4) and 373.083, Florida Statutes (F.S.), this Consent Order is entered into between the Southwest Florida Water Management District (District) and Century-Fairfield Village, Ltd. (Permittee), to settle certain matters at issue between the parties. The parties hereby voluntarily agree to the following findings of fact, conclusions of law and corrective actions.

FINDINGS OF FACT

1. The District is the administrative agency charged with the responsibility to conserve, protect, manage and control the water resources within its boundaries and to administer and enforce Chapter 373, F.S., and the rules promulgated thereunder as Chapter 40D, Florida Administrative Code (F.A.C.).
2. Permittee is a Florida limited partnership having a mailing and principal address of 500 South Florida Avenue, Suite 700, Lakeland, Florida 33813. Permittee owns and operates Century-Fairfield Village Mobile Home Park.
3. On April 8, 2003, the District issued Water Use Permit (WUP) No. 20008005.002 (the .002 Permit) to Permittee, authorizing water withdrawals of 102,800 gallons per day (gpd) on an annual average basis, and 150,900 gpd on a peak month basis, from two wells for public supply use.

DOCUMENT NUMBER-DATE

09164 OCT-5 05

4. On March 28, 2006, the District issued to Permittee WUP modification No. 20008005.003 (the .003 Permit) to amend the .002 Permit by placing District ID No. 2 into "capped status" and adding replacement District ID No. 3. The .003 Permit did not change the quantities of authorized withdrawals on an annual average or peak month basis. The .002 and .003 Permits are collectively referred to hereafter as "the Permit."

5. On February 7, 2005, District staff issued to Permittee a Notice of Non-compliance (the Notice) to advise that, for the 12-month period of January 2004 through December 2004, an average quantity of 117,187 gpd had been withdrawn from the withdrawal facilities authorized by the Permit. This quantity represents an overpumpage amount of 14,387 gpd on an annual average, or approximately 14.0% over the permitted quantity. The Notice advised Permittee to bring the pumpage amounts into compliance with the Permit within thirty days of issuance of the Notice.

6. Permittee responded by telephone on February 15, 2005, and indicated that an application for a modification to the Permit would be submitted due to a recent expansion of the service area. By letter dated March 3, 2005, Permittee's representative stated that the application would be submitted by April 15, 2005. A meeting was held on March 24, 2005, to discuss the violations. As of the preparation of this Consent Order, Permittee has not yet submitted an application for modification of the Permit.

7. However, since the issuance of the Notice, withdrawals have continued to exceed the permitted quantity. For the 12-month periods ending October 2004 through September 2006, Permittee has exceeded the total annual average withdrawals authorized by Permit, as reported below.

12-MONTH PERIOD ENDING		AVERAGE ANNUAL (DAILY PUMPAGE - GPD)	PERCENTAGE OVER PUMPED
YEAR	MONTH		
2005	3	126,064	22.6%
2005	4	123,157	19.8%
2005	5	121,555	18.2%
2005	6	125,085	21.7%
2005	7	124,540	21.1%
2005	8	131,623	28.0%
2005	9	141,762	37.9%
2005	10	149,412	45.3%
2005	11	148,353	44.3%
2005	12	153,787	49.6%
2006	1	154,433	50.2%
2006	2	156,463	52.2%
2006	3	159,958	55.6%
2006	4	163,976	59.5%
2006	5	164,293	59.8%
2006	6	166,188	61.7%
2006	7	167,516	63.0%
2006	8	165,142	60.6%
2006	9	159,803	55.5%

8. The parties herein have agreed to resolve all disputed issues regarding the violations set forth above, as described in this Consent Order.

#### CONCLUSIONS OF LAW

9. The District has jurisdiction over this matter pursuant to Chapter 373, Part II, F.S., and Chapter 40D-2, F.A.C.

10. Making withdrawals in excess of the quantity of water authorized by the Permit, as described in paragraph seven, above, constitute violations of Section 373.219(1), F.S., Rule 40D-2.381, F.A.C., and the terms of the Permit.

## CORRECTIVE ACTIONS

11. Permittee shall pay to the District penalties of Six Thousand Eight Hundred Sixty-one and 02/100 dollars (\$6,861.02) and District enforcement costs of Two Thousand and 00/100 dollars (\$2,000.00) for a total of Eight Thousand Eight Hundred Sixty-one and 02/100 dollars (\$8,861.02) to be paid within ten (10) days of approval of this Consent Order by the District Governing Board. If mailed, the address for payment is:

Southwest Florida Water Management District  
Finance Department  
2379 Broad Street  
Brooksville, Florida 34604-6899

12. Within thirty (30) days of approval of this Consent Order by the District Governing Board, Permittee shall submit to the District for approval an acceptable written Compliance Plan demonstrating how and when it will come into full compliance and remain in compliance with state statutes, District rules and the terms of the Permit. Permittee shall respond to any District staff requests for additional information within the timeframes specified. Permittee shall reduce monthly average daily flows to within permitted quantities within one hundred twenty (120) days of District approval of the Compliance Plan. Permittee shall achieve full compliance with state statutes, District rules and the terms of the Permit or any permit renewal, within two hundred forty (240) days of District approval of the Compliance Plan. Permittee shall comply with the approved Compliance Plan. Any failure of Permittee to comply with any provision of the approved Compliance Plan shall constitute a violation of this Consent Order.

13. Permittee may apply in writing to the District for an extension of the time limits contained in this Consent Order no later than five (5) days prior to the expiration of

such time limit. The District may grant an extension of time in writing for good cause shown.

14. For each day of delay beyond any due date specified in this Consent Order, Permittee shall pay to the District an additional sum of One Hundred and 00/100 dollars (\$100.00) per day. This additional sum shall be paid by Permittee upon the District's mailing to Permittee of a demand letter for payment. This provision shall not be construed to preclude the District's right to undertake other administrative, civil or criminal action as appropriate in the event any due date is not met.

15. Entry of this Consent Order shall not relieve Permittee of the duty to comply with all applicable federal, state and local laws, regulations and ordinances.

16. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69, 373.083(1) and 373.129, F.S.

17. Permittee hereby waives any right to an administrative hearing or judicial review of the terms of this Consent Order.


18. The District expressly reserves and retains the right to initiate appropriate legal action against Permittee to prevent or prohibit the future violation of any applicable statutes, rules, orders, or permit conditions, except as specifically addressed in this Consent Order.

19. For and in consideration of the complete and timely performance by Permittee of its obligations under this Consent Order, the District waives its right to pursue civil or administrative action for any violations described in this Consent Order.

20. Permittee shall allow authorized representatives of the District access to Permittee's property where the wells are located at all reasonable times without prior consent or notice for the purpose of determining compliance with this Consent Order, Chapter 373, F.S., the rules of the District, and the terms of the Permit (including as such may be modified or any permit renewal), except that the District shall attempt to notify Permittee prior to access.

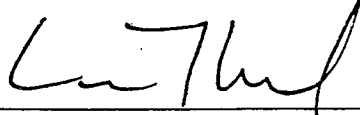
21. Permittee further agrees to henceforth fully comply with all of the terms and conditions of its WUP, including any modifications or renewals thereof. Permittee acknowledges by the execution of this Consent Order that any future violation of Chapter 373, F.S., District rules, or the terms of the Permit, including any modifications or renewals thereof, may subject it to administrative action or civil suit in which civil penalties of up to Ten Thousand and 00/00 dollars (\$10,000.00) per day, per offense may be imposed.

22. The effectiveness of this Consent Order is subject to review and approval by the District Governing Board. In the event the District Governing Board shall not approve this Consent Order, this Consent Order shall be null, void and of no legal effect. After this Consent Order has been executed by Permittee and the Executive Director of the District, Permittee may not withdraw approval or terminate this Consent Order under any circumstances unless the District Governing Board fails to approve this Consent Order.

  
\_\_\_\_\_

Witness

CENTURY-FAIRFIELD VILLAGE, LTD.

By:   
\_\_\_\_\_

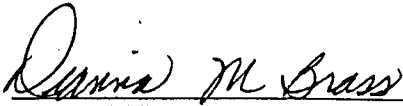
Name: Lawrence T. Maxwell

Title: President


8-7-07

Date

SOUTHWEST FLORIDA WATER  
MANAGEMENT DISTRICT

  
\_\_\_\_\_

Witness

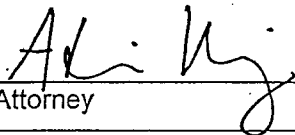
By:   
\_\_\_\_\_

David L. Moore  
Executive Director

8-9-07

Date


Approved as to Legal Form and Content

  
\_\_\_\_\_


Attorney

Approved by the Governing Board of the Southwest Florida Water Management

District this 25<sup>TH</sup> day of SEPTEMBER 2007.

By:   
\_\_\_\_\_

Judith C. Whitehead, Chair

Attest:   
\_\_\_\_\_

Todd Pressman, Secretary

(Seal)



Filed this 26th day of

SEPTEMBER 2007.

W. Vincent M. Kell

Deputy Agency Clerk

CONSENT ORDER  
CENTURY-FAIRFIELD VILLAGE, LTD.  
WUP No. 20008005.003 / CT No. 138956  
MARION COUNTY, FLORIDA