IN THE SUPREME COURT OF FLORIDA
CASE NO. SC09-1818

NEW HOPE SUGAR COMPANY, et al.,
Appellant,
vs.

L. T. Case No.: 50-2008-CA-031975XXXMB

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,
Appellee.
_____/

BOND VALIDATION PROCEEDING

UNOPPOSED MOTION TO CONSOLIDATE
BY SOUTH FLORIDA WATER MANAGEMENT DISTRICT

Pursuant to Florida Rules of Appellate Procedure 9.040(a) and 9.300, the SOUTH FLORIDA WATER MANAGEMENT DISTRICT (the "District"), respectfully moves to consolidate the following actions:

- *Miccosukee Tribe of Indians of Florida v. South Florida Water Management District,* No. SC09-1817
- *New Hope Sugar Co. v. South Florida Water Management District,* No. SC09-1818 (this case)

and to proceed under the expedited procedures and time frames provided by Chapter 75, Florida Statutes, and Rule 9.110(i). The motion should be granted for the following reasons.

1. Case No. SC09-1817 is an appeal from a final judgment validating certificates of participation under Chapter 75, Florida Statutes. The Miccosukee

Tribe of Indians of Florida (the "Tribe") is the appellant. The Tribe filed its initial brief on October 13, 2009. The District will file its answer brief by November 2, 2009.

2. Case No. SC09-1818 is an appeal from the same final judgment. New Hope Sugar Company and Okeelanta Corporation (collectively, "New Hope") are the appellants. New Hope served its initial brief on October 15, 2009. The District will file its answer brief by November 2, 2009.

3. Since the Tribe and New Hope have filed separate initial briefs, the District expects to file separate answer briefs (if feasible, however, the District will file a combined answer brief). Reply briefs will then be due within twenty days. If every party uses the maximum time allowed, briefing will be completed by November 23, 2009.

4. Given the current posture of the cases, the District suggests that they be consolidated for oral argument and decision, but remain separate for purposes of the record and briefing. *See J.M.B. v. State*, 776 So. 2d 353, 354 (Fla. 1st DCA 2001). Based on the foregoing schedule, and depending on the Court's workload and priorities, the Court could conduct oral argument in early December 2009.

5. Actions "between the same parties involving common questions of law or fact" should be consolidated. *City of Palm Bay v. State, Dept. of Transp.*, 588 So. 2d 624, 628 (Fla. 1st DCA 1991). Case Nos. SC09-1817 and SC09-1818

involve common parties (the District, the Tribe, and New Hope) and have common questions of law and fact. In both actions, this Court is asked to determine the legality of the District's proposed project and its financing. Consolidating these two actions would minimize unnecessary costs and delay, and promote judicial economy.

6. Counsel for the District has conferred with counsel for the Tribe and for New Hope, and is authorized to represent that they are in favor of consolidating Case Nos. SC09-1817 and SC09-1818.

7. The District has filed contemporaneously with this motion an identical motion to consolidate in the other referenced case.

Based on the foregoing, the District respectfully requests this Court to enter an order consolidating Case Nos. SC09-1817 and SC09-1818.

Respectfully submitted this 20th day of October 2009.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and US Mail to **Joseph P. Klock, Jr., Esq.**, 283 Catalonia Avenue, 2nd Floor, Coral Gables, FL 33134; **Dexter W. Lehtinen, Esq.**, 7700 N. Kendall Drive, Suite 303, Miami, FL 33156; **Maureen Hackett, Esq.**, (for all of the served State Attorneys), State Attorney for 15th Judicial Circuit, 401 N. Dixie Highway, West Palm Beach, FL 33401; and **E. Thom Rumberger, Esq.**, P.O. Box 10507, Tallahassee, FL 32303, this 20th day of October 2009.

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