IN THE SUPREME COURT OF FLORIDA
CASE NO. SC09-1817 and SC09-1818

MICCOSUKEE TRIBE OF INDIANS OF FLORIDA, NEW HOPE SUGAR COMPANY and OKEELANTA CORPORATION,
Appellants,
vs.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,
Appellee.
_____/

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

BOND VALIDATION PROCEEDING

DISTRICT'S SUGGESTION TO EXPEDITE AND DISPENSE WITH ORAL ARGUMENT

The SOUTH FLORIDA WATER MANAGEMENT DISTRICT (the "District"), respectfully suggests this case be expedited and that oral argument be dispensed with and in support thereof states:

1. This case involves an appeal under chapter 75, Florida Statutes, validating the District's proposed issuance of certificates of participation to finance Everglades restoration.

2. Briefing is now complete, after following the accelerated timeframes established by Florida Rule of Appellate Procedure 9.110(i). The last (reply) briefs were filed by the appellants on December 1, 2009.

3. No timely request for oral argument was filed.[1] *See* Fla. R. App. P. 9.320 ("A request for oral argument shall be a separate document served by a party not later than the time the last brief of that party is due.").

4. The District previously moved to expedite disposition of this matter, which the Court denied by order dated October 21, 2009. Developments since then justify expedited review.

5. First, oral argument was not timely requested, and it is not necessary. The issues are well-settled and no novel questions of law are presented. *See State v. Sch. Bd. of Sarasota County*, 561 So. 2d 549 (Fla. 1990). The 36-page final judgment is well-written and exhaustive in its analysis. The Court has accepted overly lengthy reply briefs. There is nothing appellants' counsel can say at oral argument that has not already been said.

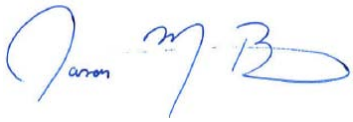
6. Second, the underlying transaction is time-sensitive. Pursuant to the Amended and Restated Agreement for Sale and Purchase, final resolution of this appeal on or before March 31, 2010, is required to ensure the successful closing of the acquisition. (*See* App. 2611.) This Court has previously expedited disposition of a bond validation appeal where delay would have subjected the issuing

[1]On January 8, 2010, New Hope served an untimely Request for Oral Argument. Its failure to do so on or before December 1, 2009, is inexcusable.

government entity to substantial penalties. *See Poe v. Hillsborough County*, 695 So. 2d 672 (Fla. 1997).[2]

7. For the foregoing reasons, the District respectfully requests that this Court expedite final disposition of this matter, without oral argument. If this Court deems oral argument necessary, the District respectfully suggests that oral argument be expedited.

Respectfully submitted this 12th day of January 2010.



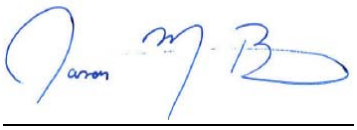
Randall W. Hanna, Esq.
Florida Bar No. 398063
Christine E. Lamia, Esq.
Florida Bar No. 745103
Frederick J. Springer, Esq.
Florida Bar No. 982164
Jason M. Breth, Esq.
Florida Bar No. 0040742
BRYANT MILLER OLIVE P.A.
101 North Monroe Street, Suite 900
Tallahassee, Florida 32301
Telephone: (850) 222-8611
Facsimile: (850) 222-8969

Sheryl G. Wood, General Counsel
Florida Bar No. 808067
Frank S. Bartolone, Esq.
Florida Bar No. 236209
SOUTH FLORIDA WATER
MANAGEMENT DISTRICT
3301 Gun Club Road MSC-1410
West Palm Beach, Florida 33406
Telephone: (561) 682-2884
Facsimile: (561) 682-6276

[2]In *Poe*, this Court set oral argument approximately one month after the filing of the notice of appeal and shortened the briefing schedule to comply with the expedited oral argument date. *See* Order Scheduling Briefing and Oral Argument (April 4, 1997). As here, the governmental entity was under critical time restraints.

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 12th day of January 2010.



Jason M. Breth, Esq.
Florida Bar No. 0040742