

**FACTORS AFFECTING THE USE AND DISPOSAL OF CONE RANCH**  
**June 19, 2009**

**EXECUTIVE SUMMARY**

The County's Cone Ranch property includes approximately 12,880 acres of which 35% are wetlands, 62% are pasturelands, and 3% are upland forests.

The property was officially transferred to the County's water and wastewater utility enterprise system (the "Enterprise System") in 1991 through the sale of utility revenue bonds to refinance its acquisition by the County in 1988.

Enterprise assets are the sole property of the County, but their use or disposal is subject to the conditions of the Enterprise System's outstanding utility revenue bonds.

All proceeds derived from the use or disposal of Enterprise System assets may only be used for Enterprise System purposes as prescribed in the conditions of those bonds.

The County's use or disposal of its Cone Ranch property is or would be subject as well to various third-party interests over all or certain portions of the property.

Interests that cannot be unilaterally terminated by the County are currently held by:

- Various Utilities—For electric, gas, oil, and railway transmission.
- State of Florida—For oil and mineral reservations and maintenance of drainage ditches.
- Plant City—For maintenance of drainage ditches.
- Tampa Bay Water—For development and operation of a regional wellfield.
- The Nature Conservancy—For protection of nature landscapes and ecosystems.
- Bowmer Family—For ingress, egress, and utilities.

Interests that can be unilaterally terminated by the County are currently held by:

- Audubon Ranch—For cattle grazing.
- HC School District—For management of relocated gopher tortoises.
- State of Florida—For County maintenance of EPA-funded drainage ditches and State restoration of ecosystems.
- SWFWMD—For maintaining and monitoring wetland wells installed by the District.

The County's use or disposal of the property is currently subject to public policy set by the BOCC:

- Resolution R03-112—The covenants for the utility bonds issued in 2001 and 2003 which constitute a contract with the bond holders.
- Business Principles—A declaration adopted in 1995 to operate the Enterprise System in accordance with common water and wastewater industry principles for the benefit of its customers.

Transferring the Cone Ranch property from the Enterprise System to the County's general fund or a third party would entail:

- Meeting bond-covenant requirements for disposal of Enterprise System assets.
- Terminating such terminable third-party interests as may be desirable.
- Negotiating termination of such non-terminable third-party interests as may be desirable.

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**May 2009**

**1 BACKGROUND INTERESTS AND OBLIGATIONS**

1.1 Third-Party Interests—Acquisition

1.1.1 2/17/88—Interlocal Agreement with West Coast Regional Water Supply Authority (“WCRWSA”, the predecessor of Tampa Bay Water) to acquire Cone Ranch (12,500 acres) and convey same to County upon County issuance of a bond-anticipation note. WCRWSA held an option to purchase 12,607 acres at \$950/acre. Pertinent conditions of Interlocal Agreement:

- All reasonable and necessary rights, easements, licenses, and interests required to construct and operate a wellfield are reserved to WCRWSA and its successors (the “Authority”).
- Right to select location of wellsites, easements, pump stations, and appurtenances are reserved to Authority.
- County has exclusive right to all water withdrawn from property by Authority.
- Authority’s interests revert to County if property cannot be used as a water-supply source.

1.1.2 3/31/88—Closing on Cone Ranch property. Conveyance subject to:

- Access by Plant City and Works Progress Administration for construction/maintenance of drainage ditches.
- Outfall ditch easement held by the State.
- Oil and mineral reservations held by the State.
- Utility easements held by Florida Power, Houston Texas Gas and Oil, Florida Gas Transmission, and TECO.
- A TECO power transmission line for which no easement was recorded.
- Right-of-way easement held by Seaboard Airline Railroad.
- Access by CF Industries, Inc. (CFI) per its 1987 agreements with seller, A.K. Florida Properties, N.V., a Netherlands Antilles corporation.

1.1.3 8/10/95—Agreement with CFI for exchange of 1,558 County acres for 1,938 CFI acres. A map of the proposed exchange is included as “**Attachment A**”. Exchange subject to:

- Creation of secured, quarter-mile-wide conservation buffer by CFI on County-conveyed property adjacent to County property.
- First right of refusal to purchase County-conveyed property is reserved to County if gypsum stack not constructed.

1.1.4 9/18/95—Amendment of ‘88 Interlocal Agreement.

- Transferred Authority’s interests in County-conveyed property to County-acquired property upon closing of the property exchange with CFI (9/21/95).
- The County-acquired property is subject to the terms and conditions of the ‘88 Interlocal Agreement.

## 1.2 Terminable Third-Party Interests—Post-Acquisition

1.2.1 8/19/92—Lease granted to Audubon Ranch for cattle grazing. Pertinent conditions:

- A 5-year term commencing 1/1/93.
- Early termination by County for well development with 1 year's notice.
- Use of property for any other bona fide agricultural purpose.
- No lessee timber rights.
- Lessee required to construct and maintain fencing for cattle operations.
- Lease cannot be assigned or property sublet without County's permission.
- Rental is \$150,101 annually payable in quarterly increments of \$37,525.25.
- Rental payments are deposited in Enterprise System account WAR00316.
- 9/6/95—First Amendment. Pertinent conditions:
  - **Term automatically extended 1 additional year on each January 1 commencing on 1/1/96 unless notice of its rejection is given by either party by October 1 of the prior year.**
  - Lessee may license use of property for agricultural purposes with prior approval of County.
  - County entitled to share of revenue generated by licensed agricultural uses of property.
  - Lessee agreed to transfer of its rights from County-conveyed property to County-acquired property per '95 agreement with CFI.

1.2.2 6/21/95—License granted to HC School Board for relocation of gopher tortoises to northeast quarter of S4, T27S, R22E adjacent to CFI property from construction site of Citrus Park High School. Pertinent conditions:

- Renews annually for life of the relocated tortoises and their descendents.
- School Board responsible for habitat management and conducting population surveys every 3 - 5 years.
- **Tortoises and their descendents are subject to removal by and at expense of School Board if hindering wellfield development or in public's interest.**

## 1.3 Non-Terminable Third-Party Interests—Post-Acquisition

1.3.1 5/4/94—Pipeline easement granted to Florida Gas Transmission Company.

1.3.2 11/13/95—Utility easement granted to TECO (Sections 19 and 20 of T27S, R22E).

1.3.3 11/6/96—Conservation Easement granted to The Nature Conservancy for protection, maintenance, or restoration of nature landscapes and ecosystems within the eastern half of Sections 4 and 9 of T27S, R22E. The easement area is adjacent to the eastern boundary of the CFI property. Pertinent conditions:

- Perpetual, nonexclusive, and assignable.

- **Prohibits any excavation, alteration, removal, or destruction of soil components or vegetation inconsistent with approved restoration activities.**
- **Prohibits construction or placement of buildings, roads, signs, utilities, or other structures on or above the ground.**
- **Prohibits use of property for disposing or placing of waste, unsightly, or offensive materials.**
- Installation of monitoring wells and access trails by Authority.
- Ongoing access by grantee, CFI, Authority, SWFWMD, Florida Game and Fresh Water Fish Commission, Florida Department of Community Affairs, FDEP, Hillsborough River Greenways Task Force for restoration, maintenance, or monitoring purposes.
- Effective upon verified completion of CFI's mandated restoration activities.
- Notice of such completion to be recorded by County (recording not confirmed).

1.3.4 5/1/98—Amended and Restated Interlocal Agreement between WCRWSA members (AKA the “Governance Agreement”). Pertinent conditions:

- Established absolute obligation of Authority to supply each member's water needs.
- Required transfer of specified water-production facilities and properties to the Authority for compensation. [Cone Ranch was not specified.]
- Required concurrent execution of Water Supply Contract. Pertinent conditions:
  - Established Authority's obligation to develop new production facilities to meet supply needs of members.
  - Eliminated County's entitlement to all water withdrawn by Authority from the Cone Ranch property under the 1988 interlocal agreement to finance acquisition of the property.

1.3.5 9/2/04—Ingress, egress, and utilities easement granted to Mathew and Joanna Bowmer.

#### 1.4 Terminable County Obligations—Post-Acquisition

1.4.1 9/4/02—License granted to SWFWMD for installing, maintaining, and monitoring wetland wells at nine sites within Sections 16, 19, 20, 21, 22, 27, 28, and 35 of T27S, R22E. Pertinent conditions:

- Continues in effect until terminated.
- **Terminable at will by either party with 6 months' notice.**

1.4.2 12/7/05—Agreement with Florida Department of Agriculture and Consumer Services for timber management on County properties by its Division of Forestry (DOF). The only County-owned timber managed by DOF as of May 2009 is the 1200-acre pine forest in the southeastern portion of Cone Ranch that was planted by the Plant City and Tampa East Rotary Clubs pursuant to a 5-year license granted by the County in 1991. Pertinent conditions:

- State maintenance and restoration of ecosystems to historic conditions through thinning, controlled burning, and reforestation of timber resources.
- State coordination of timber sales at greater of 20% of proceeds or administrative expenses plus 5% of proceeds.
- Effective for 5 years following execution.
- Automatically renews for 3 5-year terms unless terminated.
- **Termination for cause or convenience with 60 days' notice.**

## 1.5 Miscellaneous Third-Party Claims or Interests

- 1.5.1 5/12/04—Claim filed with County by Ivey and Althea Cannon to establish ownership of 5 acres within Cone Ranch by adverse possession. Order quieting title to 1.7 acres in favor of Althea Cannon was granted on 2/3/09 in Hillsborough County Circuit Court.

## 1.6 Acquisition Financing

### 1.6.1 Non-Enterprise Funding.

- 1988—Acquisition originally funded by an unsecured general-fund loan (3/31/88).
- 1988—Public improvements bonds (the “Series 1988 Bonds”) were issued to refund the unsecured loan with repayment from annual appropriations of non-ad valorem revenues.

### 1.6.2 Enterprise Funding.

- 1991—Series 1988 Bonds were refunded by the Series 1991B Bonds with payment secured by the revenues of the County’s water and wastewater utility system (the “Enterprise System”).
- 1993—Series 1993 Bonds (the “Senior Lien Bonds”) were issued to refund or retire all outstanding bonds issued for the Enterprise System other than the Series 1991A Bonds and the Series 1991B Bonds.
- 2001—Series 1991A Bonds and Series 1991B Bonds were refunded by the Series 2001 Bonds (the “Junior Lien Bonds”) with payment secured by the net revenues, impact fees, and other proceeds of the Enterprise System subsequent to satisfaction of all Series 1993 Bonds deposit requirements.
- 2003—Series 2003 Bonds were issued to refund the remaining Series 1993 Bonds with payment secured by the net revenues, impact fees, and other proceeds of the Enterprise System on parity with the Series 2001 Bonds. This action removed the “junior lien” status of the Series 2001 Bonds as all “senior lien” bonds (the “Series 1993 Bonds”) were refunded by the Series 2003 Bonds.
- 2009—Series 2003 Bonds were defeased in their entirety in June along with a portion of the Series 2001 Bonds. Only Series 2001 Bonds remained outstanding at that point.
- A funding analysis is included as “**Attachment B**”.

## 1.7 Enterprise Restrictions

1.7.1 Bond Covenants—The conditions of the Series 2003 Bonds (the “Covenants”) were established by County resolution R03-112 which concurrently amended and replaced the resolutions adopted for the Series 2001 Bonds (R01-068 as amended by R01-084). Until amended or superseded by a subsequent resolution and/or defeasance of the Series 2001 Bonds in their entirety, the Covenants shall control the disposition of all current and future Enterprise System assets including the County’s Cone Ranch property (the “Property”). Pertinent conditions:

- Contract—Per Article V, the Covenants constitute a contract between the County and the holders of the Series 2001 Bonds and any additional parity bonds issued pursuant to the Covenants.
- Use of System—Section 11.01 of the Covenants requires the County to operate the Enterprise System in an efficient and economical manner.
- Preferential Treatment—Section 11.09 prohibits the Enterprise System from rendering or receiving any free service of any nature or from establishing any preferential rates for users of the same class without reasonable justification.
- No Mortgage or Sale of the System—Section 11.07(1) of the Covenants prohibits the County from mortgaging, pledging, or otherwise encumbering the Enterprise System. However, the County may dispose of any Enterprise System asset if the fair market value of the property as determined by a qualified independent appraiser:
  - Does not exceed \$500,000—With a finding in writing by the Director of WRS that it is no longer necessary, useful, or profitable in Enterprise System operations.
  - Exceeds \$500,000—With such a finding by the Director of WRS, a finding in writing by the County’s Bond Engineer that such disposal is in the County’s best interest, and the concurrence of the BOCC.
- Proceeds from Property Disposal—Section 11.07(2) of the Covenants requires that the proceeds from the sale of Enterprise System assets be placed in either the Enterprise System’s *Renewal and Replacement Account* or in its *Debt Service Account* based on the value of the disposed asset to the remaining fixed assets of the Enterprise System.
- Accounting—Section 9.01 requires the accounts of the Enterprise System to be kept separate and distinct from all other funds of the County and used only as provided therein.
- Use of Funds—Section 9.13 requires that funds on deposit in the *General Purpose Account* (gross revenues of the Enterprise System not designated for any other purpose) be used for any lawful Enterprise System purpose.

1.7.2 Business Principles—The BOCC adopted Business Principles of the Enterprise System in 1995 which include the following provisions:

- Surplus Funds—Any surplus funds that have been or may be received or accumulated shall remain with the Enterprise System and be used for the benefit of all its customers.

- Non-Performing Assets—Wherever appropriate, non-performing assets or assets which could be replaced with lower-cost alternatives shall be evaluated for sale and the cash redirected to a use which produces a higher economic return, or to reduce the debt burden of the Enterprise System subject to the provisions of relevant bond covenants.

## 1.8 Current Property Activities

1.8.1 Property Management—The County Administrator assigned the responsibility for management of the Property to the Parks and Recreation Department in 1988.

1.8.2 Current activities associated with the Property include:

- Access—Preliminary design has been completed for a bridge to replace one spanning the Itchepackesassa Creek. Selection of a design/build contractor is currently in progress. The new bridge is intended to enhance access for security, maintenance, and emergency vehicles.
- Timber Harvesting—A DOF contractor began the initial harvesting of the timber planted by Rotary Clubs in May 2009.
- Security—Equipping and housing security personnel that monitor Property access and activities.
  - A vehicle and housing utilities are provided for each of two security officers.
  - Each officer furnishes and maintains his/her own residence.

## 1.9 Property Characteristics

1.9.1 Location—The Property lies north of Plant City. Portions extend to Pasco County on the north, Polk County on the east, SR 39 on the west and Knights Griffin Road on the south. A few acres in the northeast corner of the Property lie within Polk County.

1.9.2 Topography—Per a 1998 SWFWMD report, the Property of 12,880 acres is comprised of:

- 35% wetlands
- 62% pasture
- 3% upland forest

## 2. PROCESS FOR TRANSFER OR DISPOSAL OF CONE RANCH

2.1 Unilateral Actions—Actions to comply with 11.07(1) of the Covenants or to eliminate terminable interests that may impede disposal include:

- Obtaining two or more independent appraisals of Cone Ranch.
- Obtaining a finding in writing from the Director of WRS that Cone Ranch is no longer necessary, useful, or profitable in Enterprise System operations.

- Obtaining a finding in writing by the County's Bond Engineer that disposal of the Cone Ranch is in the County's best interest.
- Obtaining BOCC approval of a resolution concurring with the findings of the WRS Director and Bond Engineer regarding the disposal of Cone Ranch.
- Providing notice of termination to Audubon Ranch (lease for cattle grazing) on or before October 1 of the calendar year preceding the last calendar year that the County intends to lease the land or portion thereof for cattle grazing.
- Providing notice to the School District of requirement to re-locate tortoises to accommodate public interest.
- Providing 6 months' notice to terminate license granted to SWFWMD for installing, maintaining, and monitoring wetland wells at nine sites within Sections 16, 19, 20, 21, 22, 27, 28, and 35 of T27S, R22E.
- Providing 60 days' notice to terminate the agreement with Florida Department of Agriculture and Consumer Services for timber management within Cone Ranch by its Division of Forestry.

2.2 Survival of Interests—As noted above, there are several actual or potential non-terminable interests which would survive any transfer of the Property or the affected portions unless released through negotiations with the holders of those interests. Any transfer or disposal of the Property would be subject to all surviving interests. Elimination of any non-terminable interests should enhance the Property's value. Initial actions to eliminate non-terminable interests might include:

- Obtaining release of TBW rights. [As of March 2008, TBW had purportedly incurred expenses totaling \$3,739,550 for its development of the Property as a wellfield. A summary of those expenses is included as "**Attachment C**".]

R 22 E

13,500

160  
600  
500

39

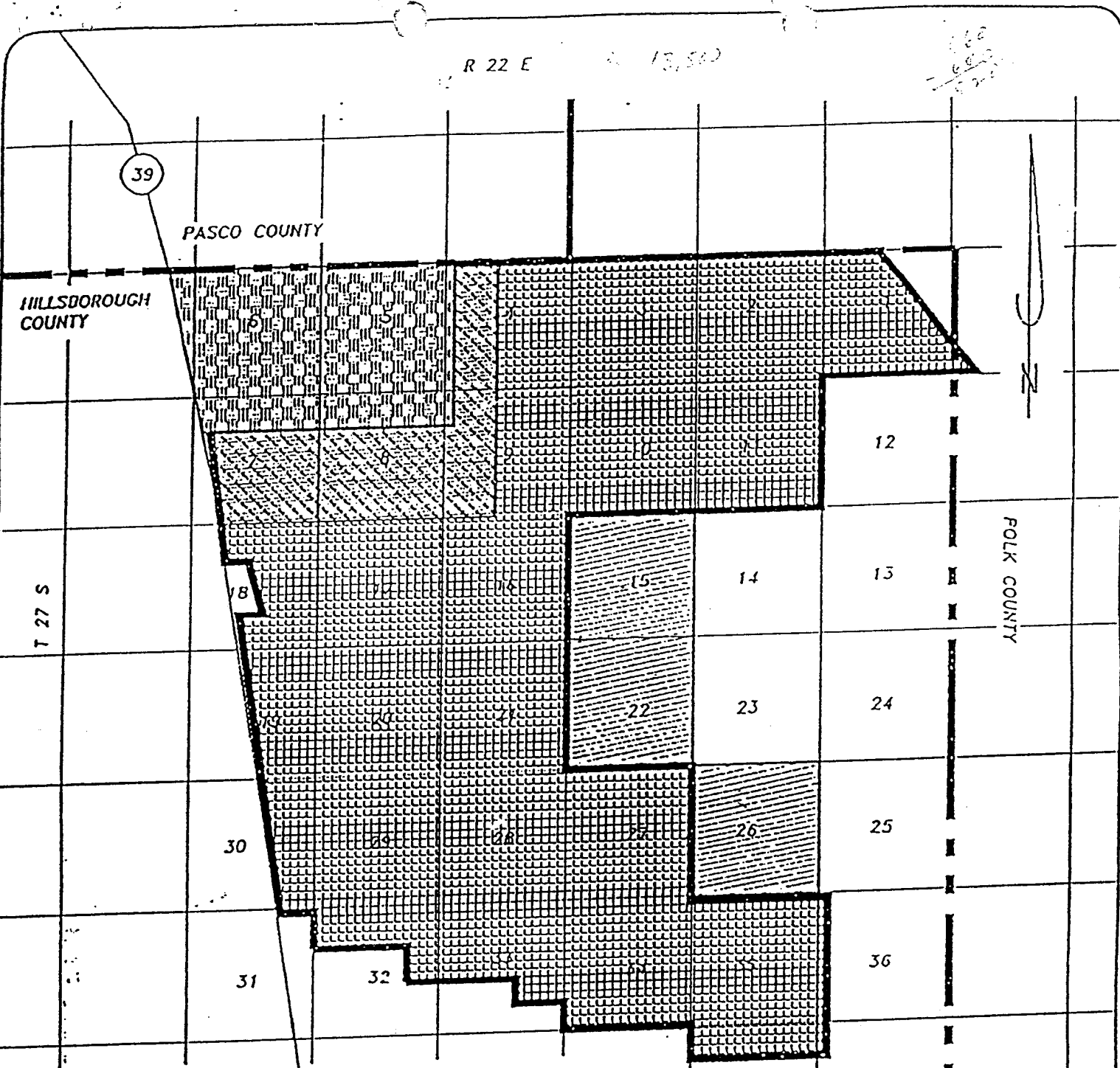
PASCO COUNTY

HILLSBOROUGH COUNTY







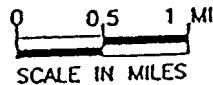
T 27 S

FOLK COUNTY



**LEGEND**

-  HILLSBOROUGH COUNTY OWNED
-  DESIRED PROPERTY OWNED BY HILLSBOROUGH COUNTY
-  CF INDUSTRIES PROPERTY
-  PROPOSED EXCHANGE PROPERTY



**Attachment A**



TITLE

CONE RANCH

DRAWN BY:

J.R.

DATE:

11/08/90

CHECKED BY:

L.R.C.

REVISIONS

JR 06/07/91

FILE NAME: CONE-PR

## Funding - Cone Ranch As of 4/30/09

Line No.	Description	Acres	Price per Acre	Calculated Price	Avg. Cost per Acre	Purchase Price
1	Contract for Purchase, dated 1/22/1988	12,500	\$ 950	\$ 11,875,000		Recorded Cost
2	Impact of land swap (transferred to CFI = 1,558; transferred from CFI = 1,938)	380			\$ 946	\$ 12,189,394
3		12,880				
4						
5	Funding History:					
6	Weekly Adjustable/Fixed Rate Public					
7	Improvement Revenue Bonds, Series 1988	\$ 14,400,000		\$ 14,400,000		
8	Refunding Utility Revenue Bonds, Series 1991B	\$ 13,145,000	\$ (14,400,000)	\$ 13,145,000		
9	(6.50% Bonds, due August 1, 2016 - Yield 7.250%)					
10						
11	Refunding Utility Revenue Bonds, Series 2001 [See Note A]	\$ 11,492,766	\$ (13,145,000)	\$ 11,492,766		
12						
13						
14						
15						
16						
17						
18						
19						
20	<b>Note A:</b>					
21	Refund Series 1991A	\$ 181,145,000	\$ (22,768,648)	\$ 158,376,352		
22	Refund Series 1991B	13,145,000	(1,652,234)	11,492,766	6.18%	
23	Refund a portion of Series 1993	18,570,000	(2,334,118)	16,235,882		
24	Funded from other available sources, net of issuance costs	(26,755,000)	26,755,000	-		
25	Total of Series 2001	\$ 186,105,000	-	\$ 186,105,000		

07/'08 Year to

PROJECT ITEMS at April 2008	06/07		05/06		04/05		Previous Expenditures	Total Project Costs to Date
	Expenditures	Expenditures	Expenditures	Expenditures	Expenditures	Expenditures		
<b>CONSTRUCTION</b>								
Construction								
Engineering Services								
Subtotal	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>FEASIBILITY &amp; DESIGN</b>								
401 Engineering Services			\$3,656	\$2,494,380			\$2,498,036	
Hydrological Services			\$0	\$67,851			\$67,851	
Ecological Services	\$20,975	\$68,752	\$105,684	\$631,378			\$1,007,291	
Other Prof. Services			\$0	\$150,901			\$150,901	
Legal			\$0	\$0			\$0	\$0
Subtotal	\$20,975	\$68,752	\$105,684	\$3,344,510			\$3,724,079	
<b>PROPERTY</b>								
Purchases			\$0	\$10,000			\$10,000	
Legal			\$0	\$4,480			\$4,480	
Subtotal	\$0	\$0	\$0	\$14,480			\$14,480	
<b>OTHER SERVICES</b>								
Repair & Maintenance			\$0	\$990			\$990	
Contingency			\$0	\$0			\$0	\$0
Subtotal	\$0	\$0	\$0	\$990			\$990	
<b>Total Cone Ranch</b>	<b>\$20,975</b>	<b>\$68,752</b>	<b>\$105,684</b>	<b>\$3,359,980</b>	<b>\$184,159</b>	<b>\$3,359,980</b>	<b>\$3,739,550</b>	<b>\$81,938,000</b>