

MEMORANDUM

TO: Governing Board

FROM: Carlos D. Herd, P.G., Interim Executive Director

DATE: September 28, 2015

RE: Surface-Use Lease Agreement with Chemours Company TT, LLC,
Rayonier Atlantic Timber Company South Tract in Bradford County, Florida

RECOMMENDATION

Staff recommends the Governing Board authorize the Executive Director to execute a surface-use lease agreement with Chemours Company TT, LLC, to mine portions of the District-owned Rayonier Atlantic Timber Company South Tract in Bradford County, Florida.

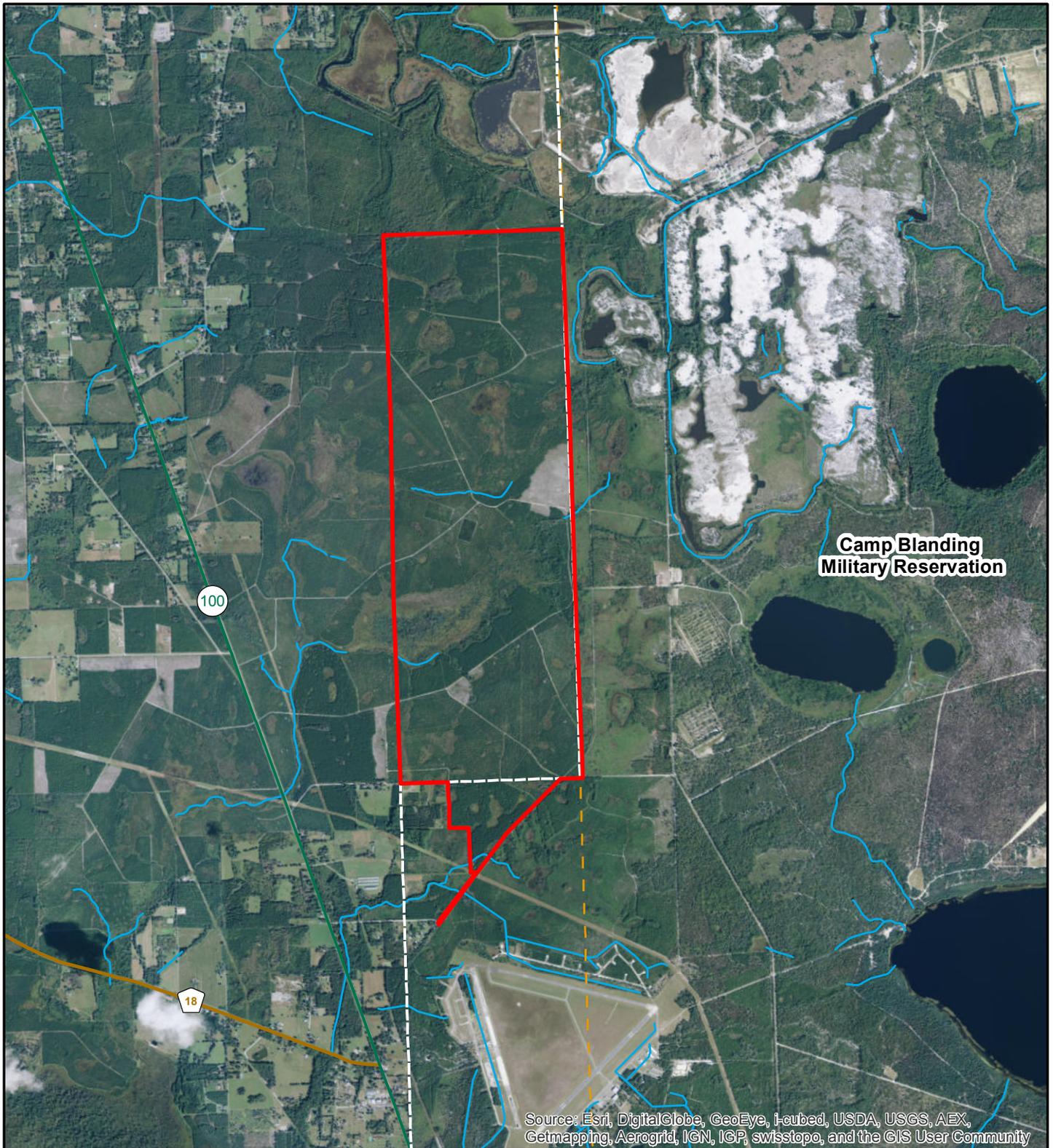
BACKGROUND

At the June 9, 2015, Governing Board meeting, a Public Hearing was held and the Suwannee River Water Management District Governing Board approved Resolution Number 2015-16. The Resolution included: authorizing the purchase of the Rayonier Atlantic Timber Company South Tract, 2,014 Acres +/-, in Bradford County for Camp Blanding Buffering; authorizing Amendment No. 14 to the Fiscal Year 2015 Budget; accepting a Partial Assignment of Cooperative Agreement with the Department of Environmental Protection and National Guard Bureau; and authorizing conveyance of 104 Acres +/- of the Tract to St. Johns River Water Management District.

The tract is an important component of the District's ongoing effort to develop significant water resource development projects in District-designated water resource caution areas. The attached figure indicates the tract location. Preliminary assessment indicates development of the tract as a water resource development project and will include the following benefits: sustaining flows to Santa Fe River in support of the Lower Santa Fe and Ichetucknee Rivers and Priority Springs MFLs, enhancing wetlands and providing additional surface-water storage, providing flood abatement to county residents and providing aquifer recharge.

The attached surface-use lease agreement allows Chemours Company TT, LLC, (Chemours), to mine portions of the tract for heavy minerals extraction. The agreement between Chemours and the District enhances development of the tract as a water resource development project. This would be done by coordinating reclamation of the site with Chemours to perform site work necessary for development of the water resource development project. The District will work with Chemours, the National Guard Bureau, and Department of Environmental Protection to design a project that optimizes the mine reclamation method to satisfy State of Florida requirements and meeting the objectives to sustain flows to the Santa Fe River, enhance wetland systems and surface water storage, and provide flood protection.

DJ/dd



**Camp Blanding
Military Reservation**

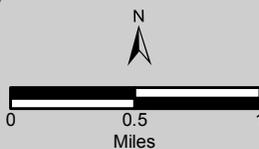
 Project Boundary (2,014 Acres +/-)

 WMD Boundary

 County Boundary

 Streams (USGS Modified)

**Rayonier Atlantic Timber Company
South Tract**



Note: This map was created by the Suwannee River Water Management District (SRWMD) to be used for planning purposes only. SRWMD shall not be held liable for any injury or damage caused by the use of data distributed as a public records request regardless of their use or application. SRWMD does not guarantee the accuracy, or suitability for any use of these data, and no warranty is expressed or implied. For more information please contact the SRWMD at 386-362-1001. Map Created on 8/26/2015

COMPENSATION AND RECLAMATION AGREEMENT

THIS AGREEMENT, (this “AGREEMENT”) entered into this _____ day of _____ 2015, is by and between the SUWANNEE RIVER WATER MANAGEMENT DISTRICT, a public body existing under Chapter 373, Florida Statutes, whose address is 9225 County Road 49, Live Oak, Florida 32060 (the “DISTRICT”), and THE CHEMOURS COMPANY TT, LLC, a Pennsylvania limited liability company, having its principal place of business at 1007 Market Street, Wilmington, Delaware 19899 (the “COMPANY”).

W I T N E S S E T H :

WHEREAS, the DISTRICT is the owner of a certain parcel of real property (the “PROPERTY”) located in Bradford County, Florida which is more particularly described in Exhibit “A”, attached hereto and made a part hereof; and,

WHEREAS, the DISTRICT obtained title to the PROPERTY from RAYONIER ATLANTIC TIMBER COMPANY F/K/A TIMBERLANDS HOLDING COMPANY ATLANTIC, INC., a Delaware corporation, whose address is 1901 Island Walkway, Fernandina Beach, Florida 32034 (“RAYONIER”), and,

WHEREAS, RAYONIER conveyed title to the PROPERTY to the DISTRICT by virtue of that certain special warranty deed (the “DEED”) dated _____, 2015, and recorded at O.R. Book _____, Page _____, of the public records of Bradford County, Florida; and,

WHEREAS, RAYONIER reserved to itself and its successors and assigns the mineral rights to the PROPERTY by including in the DEED as clause which provides as follows:

GRANTOR HEREBY EXPRESSLY SAVES, excepts, and reserves out of the grant hereby made, unto itself and its successors and assigns forever, all oil, gas, and other liquid or gaseous hydrocarbons, including, without limitation, all oil, gas, and other liquid or gaseous hydrocarbons from or within coal, lignite or shale seams, beds or formations; coal, lignite and peat; base and precious metals; ores and industrial minerals; helium; geothermal resources including, without limitation, hydro pressured reservoirs, geopressured reservoirs, steam and other gases, hot water, hot brine, heat, natural gas dissolved in formation water and any associated energy found in such formation water; fissionable source materials; phosphate; sand; heavy mineral sands including, without limitation, Ilmenite, Leucoxene, Rutile, Staurolite and Zircon; clays including, without limitation, common clay; gravel; limestone; humus; marble; granite; gemstones; and minerals of any and every nature, kind and description whatsoever now or hereafter susceptible to commercial exploitation regardless of whether encompassed within the term “mineral” in legal or commercial usage on the date hereof (collectively, “Mineral Resources”) in or upon said land, not previously reserved by others, together with the right to enter upon said land, at any and all

times, for the purpose of exploring the same for such Mineral Resources by geological, geophysical, geochemical, or other means, and for drilling, opening, developing, and working mines and wells thereon and taking out, extracting, or removing therefrom by any means whether now in use or hereafter developed, including by surface and subsurface mining methods, all such Mineral Resources, and to occupy and make use of so much of the surface of said land as may be reasonably necessary or convenient for said purposes, together with the right to store, save, transport, treat, process, market, or otherwise utilize such Mineral Resources so produced; together with the right to store, inject and sequester liquid and gaseous substances in subsurface pore space, salt domes, cavities and other underground structures now or hereafter created and which are now or hereafter susceptible to commercial exploitation (collectively, "Storage Reservoirs"), and the right to leach or construct Storage Reservoirs, together with all rights and powers in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete use of the property and rights hereby reserved; Provided, however, that Grantee and Grantee's heirs, representatives, successors, and assigns, shall be paid just and reasonable compensation for any injury or damage to the surface of said land or to the crops or improvements thereon caused by the exercise of any rights herein reserved; and Provided further, that the exercise of any rights by Grantor and its successors and assigns shall not be postponed or delayed so long as Grantor or its successors or assigns is making reasonable efforts to agree upon or have determined such just and reasonable compensation. Notwithstanding, Grantor hereby grants Grantee the right to personally use any peat, and clay located on the land for improvements on the land itself without compensation being due to Grantor for such personal use.

(the "MINERAL RESERVATION") (the rights reserved to RAYONIER through the MINERAL RESERVATION shall be referred to as the "MINERAL RIGHTS"); and,

WHEREAS, the MINERAL RESERVATION provides (in the underlined provision) that the DISTRICT is entitled to "just and reasonable compensation for any injury or damage to the surface of said land or to the crops or improvements thereon caused by the exercise of any rights herein reserved"; and,

WHEREAS, the COMPANY has purchased a portion of the MINERAL RIGHTS from RAYONIER and wishes to commence mining on the PROPERTY; and,

WHEREAS, the COMPANY is aware of the DISTRICT's right to "just and reasonable compensation for ... damage to the surface" and wishes to come to an understanding with the DISTRICT concerning such compensation; and,

WHEREAS, the DISTRICT is a Florida water management district operating and governed by Chapter 373, Florida Statutes; and,

WHEREAS, the DISTRICT is authorized under Florida law to undertake projects to store or impound surface water for flood abatement or the enhancement of natural systems:

In order to carry out the works for the district, and for effectuating the purposes of this chapter, the governing board is authorized to clean out, straighten, enlarge, or change the course of any waterway, natural or artificial, within or without the district; to provide such canals, levees, dikes, dams, sluiceways, reservoirs, holding basins, floodways, pumping stations, bridges, highways, and other works and facilities which the board may deem necessary; to establish, maintain, and regulate water levels in all canals, lakes, rivers, channels, reservoirs, streams, or other bodies of water owned or maintained by the district; to cross any highway or railway with works of the district and to hold, control, and acquire by donation, lease, or purchase, or to condemn any land, public or private, needed for rights-of-way or other purposes, and may remove any building or other obstruction necessary for the construction, maintenance, and operation of the works; and to hold and have full control over the works and rights-of-way of the district.

Section 373.086(1), Florida Statutes

WHEREAS, the DISTRICT is also authorized under Florida law to undertake projects to recharge groundwater and underground water supplies:

The governing board may establish works of the district for the purpose of introducing water into, or drawing water from, the underlying aquifer for storage or supply.

Section 373.087, Florida Statutes

A water management district may do any act necessary to replenish the groundwater of the district. The district may, among other things, for the purposes of replenishing the groundwater supplies within the district:

- (a) Buy water;
- (b) Exchange water;
- (c) Distribute water to persons in exchange for ceasing or reducing groundwater extractions;
- (d) Spread, sink, and inject water into the underground;
- (e) Store, transport, recapture, reclaim, purify, treat, or otherwise manage and control water for the beneficial use of persons or property within the district; and
- (f) Build the necessary works to achieve groundwater replenishment.

Section 373.106(3), Florida Statutes; and,

WHEREAS, after the COMPANY completes mining of its MINERAL RIGHTS, the DISTRICT wishes to use the PROPERTY for project(s) which will store or impound surface

water and/or recharge groundwater by introducing water into the aquifer; and,

WHEREAS, it is possible for the COMPANY to arrange its mining activities so as to make it easier for the DISTRICT to later use the PROPERTY for such project(s); and,

WHEREAS, the parties wish to, upon certain terms, trade the compensation due to the DISTRICT for damage to the surface of the PROPERTY for the assistance of the COMPANY in the DISTRICT's project(s); and

WHEREAS, the parties have reached an agreement on the matters set out above and wish to commit the terms of such agreement to writing and make a binding contract thereof.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises herein contained, the sufficiency of which is hereby acknowledged, the parties, intending to become legally and contractually bound, agree as follows:

1. RECITALS. The above recitals are incorporated herein by reference as an integral part hereof.
2. COMPENSATION TO BE PAID TO THE DISTRICT. The COMPANY shall owe no compensation to the DISTRICT as provided in the MINERAL RESERVATION except as provided in this AGREEMENT. Provided that this AGREEMENT shall not relieve any other person or entity of the duty to pay such compensation.
3. EXERCISE OF MINERAL RIGHTS. Under the applicable law, the COMPANY is required to apply for and obtain certain regulatory permits (the "PERMITS") from the Florida Department of Environmental Protection and possibly the U.S. Army Corps of Engineers. To obtain the PERMITS, the COMPANY will be required to show a plan for the reclamation and/or rehabilitation of the disturbed PROPERTY during and after the conclusion of the COMPANY's mining activities.
4. RECLAMATION. While the COMPANY follows the applicable laws that dictate methods for reclamation, the COMPANY will work with the DISTRICT in implementing the optimum reclamation method suggested by the DISTRICT that also satisfies the State of Florida requirements. In this regard:
 - 4.1 As part of the application process for the PERMITS, the COMPANY will be required to prepare a plan for the reclamation and/or rehabilitation of the disturbed PROPERTY (the "COMPANY PLAN") in which the COMPANY shall provide for the reclamation of the PROPERTY in a reasonable and workmanlike manner meeting all requirements of law.
 - 4.2 At the time the COMPANY submits its applications for the PERMITS, the COMPANY shall submit to the DISTRICT a copy of all such applications including a copy of the COMPANY PLAN.

- 4.3 As soon as practical after receipt of the COMPANY PLAN, the DISTRICT shall prepare and transmit to the COMPANY, a plan for the reclamation and/or rehabilitation of the disturbed PROPERTY (the "DISTRICT PLAN") in which the DISTRICT shall provide for the reclamation of the PROPERTY meeting all requirements of law. However, the DISTRICT PLAN shall propose a plan of reclamation that the DISTRICT believes would be beneficial to the DISTRICT for the DISTRICT's project(s) to store or impound surface water and/or aquifer recharge projects it intends to implement on the PROPERTY. The COMPANY will review the DISTRICT PLAN and inform the DISTRICT whether it approves the DISTRICT PLAN as soon as practical.
- 4.4 Should the DISTRICT PLAN be approved by the COMPANY, the DISTRICT and the COMPANY shall submit to the government agencies having jurisdiction over the PERMITS, an application to amend the PERMITS to require the COMPANY use and implement the DISTRICT PLAN for its reclamation activities. Upon the amendment of the PERMITS to use and implement the DISTRICT PLAN, no further compensation shall be owed to the DISTRICT as provided in the MINERAL RESERVATION.
- 4.5 Should the DISTRICT PLAN not be approved by the COMPANY, the DISTRICT may, in its sole discretion, elect to have the DISTRICT and the COMPANY submit to the government agencies having jurisdiction over the PERMITS, an application to amend the PERMITS to require the COMPANY use and implement the DISTRICT PLAN for its reclamation activities. Upon the amendment of the PERMITS to use and implement the DISTRICT PLAN, the COMPANY shall, in compliance with the PERMITS, implement the DISTRICT PLAN as its reclamation plan according to its normal timetable. However, the DISTRICT shall pay to the COMPANY an amount equal to:
- 4.5.1 The costs (both direct and indirect) for the COMPANY to implement the DISTRICT PLAN; less,
 - 4.5.2 The costs (both direct and indirect) for the COMPANY to implement the COMPANY PLAN; less,
 - 4.5.3 The compensation the DISTRICT is owed by the COMPANY as provided in the MINERAL RESERVATION.
- 4.6 Should the DISTRICT PLAN fail to meet with the approval of all government agencies having jurisdiction over the PERMITS or the DISTRICT fail to elect to have the COMPANY use and implement the DISTRICT PLAN, the COMPANY shall use and implement the COMPANY PLAN, and pay the DISTRICT the compensation the DISTRICT is owed by the COMPANY as provided in the MINERAL RESERVATION.

5. THIS AGREEMENT NOT TO APPLY TO POST MITIGATION MINING. Under the MINERAL RESERVATION, the PROPERTY may be mined more than once. This AGREEMENT shall only apply to the initial mining and reclamation of the PROPERTY. In other words, once the PROPERTY has been mined and reclaimed once, this AGREEMENT will no longer apply to any future mining or other extraction of minerals from the PROPERTY.

6. DISTRICT NOT TO BE RESPONSIBLE FOR THE RECLAMATION OF THE PROPERTY. Except for the duty to pay to the COMPANY the sums as set out herein, the DISTRICT shall have no duty to reclaim the PROPERTY or take any action with regards thereto.

7. COMPANY TO HAVE NO RESPONSIBILITIES UNDER THIS AGREEMENT UNLESS IT DISTURBES SURFACE. The DISTRICT's right to compensation only occurs if and when there is, "any injury or damage to the surface of said land or to the crops or improvements". Therefore until and unless such occurs, the COMPANY shall have no liability or obligation under this AGREEMENT to participate in or contribute to any reclamation of the PROPERTY or the DISTRICT's project(s) to store or impound surface water and/or aquifer recharge projects it intends to implement on the PROPERTY.

8. NOTICE. All notices given pursuant to this AGREEMENT by either party to the other shall be in writing and personally delivered or mailed by certified or registered mail, postage prepaid, and addressed as provided below. With respect to all notices so mailed, the same shall be deemed effective upon receipt unless otherwise specified herein. All notices shall be addressed as follows, or to such other address as is furnished by one party to the other from time to time.

The DISTRICT: The Suwannee River Water Management District
 c/o its Executive Director
 9225 CR 49
 Live Oak, FL 32060

The COMPANY: The Chemours Company
 Mr. C.J. Hilton
 P.O. Box 753
 Starke, FL 32091

Mitchell Duling
 The Chemours Company
 c/o Corporate Real Estate
 2nd Floor DuPont Building
 1007 Market Street
 Wilmington, DE 19899

9. RECORDATION. Both parties agree that this AGREEMENT, or a memorandum thereof, may be recorded in the public records of Bradford County, Florida.
10. GOVERNING LAW. This AGREEMENT shall be governed by and construed according to the laws of the State of Florida, without regards to its conflict of laws rules.
11. PUBLIC RECORDS. This AGREEMENT and all documents, papers, letters, or other material made or received by the DISTRICT in conjunction with this AGREEMENT shall be a public record under Chapter 119, Florida Statutes.
12. INTEGRATION. This AGREEMENT supersedes all previous agreements, oral or written, between the DISTRICT and the COMPANY concerning the PROPERTY, and represents the whole and entire agreement between the parties. Neither party has entered into this AGREEMENT in reliance upon any fact or representation not expressly provided in the written terms of this AGREEMENT. This AGREEMENT may not be amended, revoked, or abandoned, except by a writing executed by the DISTRICT and the COMPANY with the same formalities as this AGREEMENT.
13. VENUE AND JURISDICTION OF LITIGATION. The exclusive venue and jurisdiction for any litigation enforcing, construing or relating to this AGREEMENT shall be the state courts of the State of Florida in and for the Florida county where the PROPERTY is located, or if located in more than one Florida county, then in any of them. If under applicable law exclusive jurisdiction over any such matters is vested in the federal courts, then exclusive jurisdiction and venue shall be in the United States District Court for the Middle District of Florida, Jacksonville Division.
14. WAIVER OF JURY TRIAL. The parties mutually and forever waive any and all right to trial by jury in any legal proceeding arising out of or relating to this AGREEMENT or this transaction. The parties agree to have any such actions decided by a judge alone, without a jury.
15. NO WAIVER OF SOVEREIGN IMMUNITY. Notwithstanding anything else herein to the contrary, nothing herein shall be construed to waive or to otherwise affect the DISTRICT's sovereign immunity and/or the protections given the DISTRICT under Section 768.28, Florida Statutes.
16. AGREEMENT NOT TO BE CONSTRUED AGAINST EITHER PARTY. This AGREEMENT is the product of negotiation between the parties, thus the terms of this AGREEMENT shall not be construed against either party as the drafter.
17. ASSIGNMENT. Neither party shall assign its rights or duties under this AGREEMENT, without the prior written consent of the other party. Provided that such consent shall not be unreasonably withheld.

18. MISCELLANEOUS. Neither the DISTRICT nor the COMPANY intend this AGREEMENT to be for the benefit of any other person or entity, therefore no person or entity is an intended third party beneficiary hereof. This AGREEMENT may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. This AGREEMENT may be executed and delivered by facsimile and/or email transmission, with the intention that such facsimile and/or email signature and delivery shall have the same effect as an original signature and actual delivery. In the event a day of performance falls on a Saturday, Sunday or legal holiday under the laws of the State of Florida, the day of performance shall be extended to the next day not a Saturday, Sunday or legal holiday.

IN WITNESS WHEREOF the DISTRICT has caused these presents to be executed in its name by its Governing Board acting by the Chair or Vice Chair of said board, the day and year aforesaid.

GOVERNING BOARD OF THE SUWANNEE
RIVER WATER MANAGEMENT DISTRICT

By: _____
Don Quincey, Jr
Its Chair

(OFFICIAL SEAL)

ATTEST: _____
Virginia H. Johns
Secretary / Treasurer

(The remainder of this page was intentionally left blank.)

IN WITNESS WHEREOF the COMPANY has caused these presents to be executed in its name by its Manager, the day and year aforesaid.

Signed, Sealed and Delivered
in the Presence of:

THE CHEMOURS COMPANY TT, LLC

By: _____

Witness (print name under signature)

Its Manager

Witness (print name under signature)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by _____, in his capacity as manager and the authorized representative of THE CHEMOURS COMPANY TT, LLC, who is personally known to me, or who produced _____ as identification.

Notary Public (print name under signature)
Commission #

My Commission Expires:

(The remainder of this page was intentionally left blank.)