

# Fight over Water Withdrawal from St. Johns River Not Finished

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St. Johns fight not over



BEACON PHOTO/PAT HATFIELD

**Speaking his piece** – A man is surrounded by supporters in the audience as he addresses the St. Johns River Water Management District Governing Board at a hearing April 13 to decide the fate of the Yankee Lake project. Though 60-some people were heard, many others weren't, and they have some legal recourse, experts say. The St. Johns Riverkeeper and the City of Jacksonville are expected to appeal the decision. Read on for the article in the *West Volusia Beacon* by Pat Hatfield, Beacon staff writer. The original article appeared on May 3, 2009 and can be seen [HERE](#).

*Water managers gave Seminole County the green light to pull water from the St. Johns River, but the fight isn't over.*

*The St. Johns Riverkeeper and the City of Jacksonville said they're down, but not discouraged. Both said they may appeal the decision to allow the Yankee Lake plant to tap the river to get more municipal water.*

*On April 13, the St. Johns River Water Management District Governing Board voted 5-4 to allow Seminole County to take an average of 5.5 million gallons of water a day from the St. Johns for irrigation and drinking.*

*(Click to read [Facts about water regulation and conservation](#))*

*The Riverkeeper, the City of Jacksonville and St. Johns County formally opposed the Seminole County plan. The vote came after a months-long fight.*

*Seminole's permit allows the Yankee Lake plant to withdraw up to 1 million gallons of water per day (mgd) from the St. Johns River at first, to augment the county's reclaimed-water system. Reclaimed water is used for irrigation and lawn watering, not for drinking.*

*Starting in 2014, the permit allows Seminole County to withdraw an additional 4.5 mgd. This amount is supposed to supplement drinking water now drawn from wells the Water Management District says are overstressing the aquifer.*

*To increase above 5.5 mgd, Seminole County would need to request a modification to its permit. The county would have to go through staff reviews again. It's likely the Riverkeeper and other parties would fight the increase.*

*In fact, they haven't stopped fighting.*

*The Riverkeeper is a nonprofit organization dedicated to protecting the St. Johns.*

*The Riverkeeper plans to take a two-pronged approach to challenging the Water Management District's decision on Yankee Lake.*

*The group will ask the District Court of Appeal to overturn the*

decision, and plans to fight in Circuit Court as well over the Water Management District's handling of citizen comments on the Seminole County permit.

Taking the case to the District Court of Appeal is an option open only to parties to the original complaint: the St. Johns Riverkeeper, the City of Jacksonville, and St. Johns County.

## Jacksonville

City of Jacksonville Attorney Jason Teal said such an appeal is a likely step for the City of Jacksonville, but it's not a certainty.

"We're evaluating all our legal options, to see what would be our most appropriate course of action," Teal said.

There will be action, he added.

Appeals have to be filed within 30 days of the April 13 decision, so there isn't a lot of time to decide.

Last year, the Jacksonville City Council directed the city attorney's office to "pursue all legal avenues" to stop the project, which its members called a "potential detriment to the residents of Jacksonville."

Jacksonville is at the end of the 310-mile river's northerly flow. The city, like the St. Johns Riverkeeper, is worried estuaries and delicate habitats will be damaged or destroyed if the water level in the river is drawn lower and the river is more polluted at its northern end. Those are real possibilities, if municipalities are allowed to tap the river, the two groups believe.

Also, if the St. Johns becomes more sluggish, more salt water can flow into the river from the ocean, where the river's flow ends.

*Conservationists are concerned salty, brackish water buried beneath the river will work its way into the water up and down the river, if the river doesn't have sufficient volume to hold mud beds and walls in place.*

*There are plans on the drawing board for plants other than Yankee Lake. Together, these plants could draw as much as 75 mgd to 80 mgd from the St. Johns.*

*Another concern is pollution of the river from the treatment process. Environmentalists noted the plants will first lower the water level, then dump back into the river the concentrated pollutants they take out when they filter the water to make it potable. One of those pollutants will be salt.*

*Increasing the salt content of the St. Johns would be destructive to fisheries, oyster beds and aquatic life.*

*The public*

*Members of the public who were not allowed to speak at the hearing, including individual members of the Riverkeeper watchdog organization, won't be able to go the route of the Court of Appeal.*

*Citizens denied the right to speak could ask the Water Management District for a rehearing. That would actually benefit Jacksonville, giving the city more time to file its appeal. The clock would start ticking at either the time of rehearing, or upon the rejection of a rehearing.*

*Attorney Tanner Andrews of DeLand, a Sunshine Law expert, commented on the Riverkeeper's plan to go to Circuit Court.*

*"Any members of a group who were excluded from speaking because they were members of a group [i.e., The Riverkeeper organization] would probably have a Sunshine complaint, that it*

*was not a public meeting, because members of the public were not permitted to attend and be heard," Andrews said.*

*Individual members of the Riverkeeper were barred from speaking, under the rationale they were represented by an attorney at the hearing.*

*Also, some people couldn't share their opinions with the Governing Board at the hearing because they couldn't get in. The crowd was too large.*

*There also could be valid First Amendment complaints from members of the public who were denied the right to speak, Andrews said. Those could be filed in federal or state courts.*

*Members of the public whose e-mails were blocked from being received by members of the Governing Board may have a complaint based on lack of due process, as well.*

*Water Management District staff blocked e-mails sent to the Governing Board by Riverkeeper members in advance of the hearing, citing rules about ex parte communications.*

*St. Johns County*

*St. Johns County may also re-enter the fray. Commissioner Cyndi Stevenson, who attended the hearing, said the County Commission hasn't had a chance to take up the matter yet.*

*She was disappointed with the Governing Board decision, but happy the Water Management District seems willing to pay more attention to water conservation, and will do more to enforce it.*

*Stevenson noted average water use has increased from 100 gallons per person per day to 140-150 gallons per person per day.*

*Stevenson is frustrated by the rush to high-tech, high-cost solutions, before conservation is ordered.*

*She would like to see irrigation limited and pricing structures that make those who use more water pay more. Those should come before utilities go to solutions like tapping the St. Johns River, she said.*

*Stevenson, who is from Volusia County, spent a lot of time on the river when she was growing up.*

*"I just want to make sure we're good stewards of it. I want us to be able to enjoy the wetlands," she said.*