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Release

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Lake Point case enters new phase

As the Lake Point case enters a new and critical phase, the Martin County legal team has been fortified with a top-ranked statewide law firm, De La Parte & Gilbert, P.A., led by Attorney Ed De La Parte, a board certified government and administrative practice lawyer with over 35 years of experience in environmental land use and water law.

De La Parte & Gilbert, P.A., will work with Martin County Attorney Michael D. Durham and Senior County Attorneys Amy T. Petrick and Ruth A. Holmes to prepare for trial of the litigation that was filed nearly three years ago by the owners of the Lake Point property in western Martin County. The three-week trial is scheduled to begin in September.

The Lake Point Ranches was approved as a 20-acre equestrian residential development on the property off State Road 76 near Lake Okeechobee in 2007 but the equestrian community was never built.

Lake Point Phase I, LLC, and Lake Point Phase II, LLC – owned by Jud Laird, Harry Rusbridge, George Lindemann, Jr. and George Lindemann, Sr. – bought the property in 2008 for more than \$50 million. The new owners converted the project to a rock mining operation under a land acquisition and development agreement with the South Florida Water Management District, which entered into a separate agreement with the County to allow the rockpit to operate with mining permits issued by state and federal agencies.

The Lake Point venture was touted as a public-private partnership that would allow the owners to operate a for-profit rockpit to mine and sell aggregate for construction projects while donating the 2,200-acre property to the District for environmental and water management purposes. A 150-acre recreation area was to be given to Martin County. Storm water treatment areas (also known as STAs) were supposed to be created from excavated areas to cleanse water from Lake Okeechobee and divert it to the Loxahatchee River. Lake Point claimed that its project was a critical part of Everglades restoration efforts.

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Years after purchasing the property and entering into the land acquisition agreement with the District, Lake Point decided to try to generate revenue by conveying water from Lake Okeechobee through its property to the City of West

Palm Beach and other municipalities south of Martin County for sale to utility customers. Lake Point never tried to amend its agreement with the District to allow the project to be converted from an environmental restoration project to a water supply project.

In any event, the City of West Palm Beach was ultimately not interested in the Lake Point proposal and there were no other customers waiting in the wings.

In February of 2013 – even though not a single STA had been built and no property donated to the District or the County – the Lake Point property owners sued the District and the County claiming that these governments failed to keep promises that were made in the agreements. At the same time, Lake Point filed suit against former County Commissioner, Maggy Hurchalla, claiming her criticism of the environmental aspects of the Lake Point mining project interfered with Lake Point's business plan and caused the District and the County to violate the agreements. Hurchalla has asserted her First Amendment right to speak out against a project that she believes is environmentally unsound. Moreover, Lake Point claims that the District, the County and Hurchalla are responsible for millions of dollars in lost revenue from the rock mining operation and loss of future profits from a water supply conveyance proposal. Meanwhile Lake Point's mining operation has continued without interruption since the mining permits were issued.

As to some of the specific aspects of the case, the Court dismissed one claim against Hurchalla, in which Lake Point sought to prohibit her from continuing to criticize the project. The County won a victory last year when, after a two-day hearing, the Court rejected Lake Point's claims that the County violated the Public Records Act in delaying production of records related to the project.

Dozens of depositions have been taken by lawyers for both sides in which District and County employees, Maggy Hurchalla, owners, consultants and lobbyist for Lake Point have been extensively questioned.

What is likely to be the final phase of the litigation is now beginning. Attorney De La Parte and the County Attorney's legal staff are gearing up for the final months leading to the conclusion of this contentious but also amorphous litigation.

The South Florida Water Management District is represented by the agency's former general counsel, Kirk Burns, and Maggy Hurchalla is represented by Virginia Sherlock and Howard Heims of the Stuart law firm of Littman, Sherlock & Heims, P.A..

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