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**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

OUT OF BOUNDS, INC.,	)	
	)	
Petitioner,	)	
	)	
vs.	)	CASE NO. 10-2683
	)	
DEPARTMENT OF ENVIRONMENTAL	)	
PROTECTION,	)	
	)	
Respondent.	)	
ROBERT E. MCCUNE and	)	
HERNANDO SSK, LLC,	)	
	)	
	)	
Petitioners,	)	
	)	
vs.	)	CASE NO. 10-2987
	)	
OUT OF BOUNDS, INC., and	)	
DEPARTMENT OF ENVIRONMENTAL	)	
PROTECTION,	)	
	)	
Respondents.	)	

**PETITIONERS' RESPONSE IN OPPOSITION TO OUT OF BOUNDS, INC.'S
MOTIONS FOR REHEARING OR RECONSIDERATION AND EXTENSION OF TIME**

Pursuant to Section 120.569(2)(f), Florida Statutes; Florida Rules of Civil Procedure 1.280, and 1.370; and Florida Administrative Code Rules 28-106.204 and 28-106.206;

Petitioners submit this Response in Opposition to Out of Bounds, Inc.'s Motion for Rehearing or Reconsideration of this Court's April 21, 2011 Order Granting Motion to Strike and Motion to Compel, and Randy Yoho's Motion for Extension of Time, and state:

1. On March 11, 2011, Petitioners served via e-mail Petitioners'/Intervenors' Robert McCune's and Paige Cool's First Set of Discovery Requests to Out of Bounds, propounding 5 requests for admission, 11 interrogatories, and 3 requests for production.

2. On April 12, 2011, Petitioners received Respondent Out of Bounds Inc.'s Response to Robert McCune and Paige Cool's Request for Admissions.

3. The Response was signed by Randy Yoho, a non-lawyer, on behalf of Out of Bounds, Inc., Out of Bounds, Inc.'s responses interposed inapt objections and were evasive and Out of Bounds, Inc. did not answer the Interrogatories or Requests for Production.

4. On April 21, 2011, an order was entered granting Petitioners' Motion to Strike Respondent Out of Bounds, Inc.'s Response to Request for Admissions, Compelling Answers to Interrogatories and Requests for Production, Deeming Randy Yoho Not a Qualified Representative, and for Sanctions (the "Discovery Order").

5. On April 28, 2011, Randy Yoho again filed a pleading on behalf of Out of Bounds, Inc., this time requesting an extension of time to May 13, 2011 to respond to the Petitioners' Interrogatories and Requests for Production; the pleading does not address Petitioners' Request for Admissions or the sanctions awarded.

6. On April 29, 2011, F. Lorraine Jahn, Out of Bounds, Inc.'s former counsel, recently withdrawn from the case, noticed a two week limited appearance "within which time Out of Bounds will retain substitute counsel."

7. Attorney Jahn simultaneously filed Out of Bounds, Inc.'s Motion for Rehearing or Reconsideration of the April 21, 2011 Discovery Order, and Out of Bounds, Inc.'s Opposition to Motion for Substitution.

8. The motions identify nothing overlooked or misapprehended, provide no reason, argument or rationale that should excuse Out of Bounds, Inc's evasive and dilatory practices, provide no explanation why Out of Bounds, Inc. has not retained counsel by now, and provide no cognizable reason why rehearing or reconsideration should be granted.

9. A motion for reconsideration must be based upon matters overlooked or misapprehended by the tribunal. *Whipple v. State*, 431 So.2d 1011 (Fla. 2d DCA 1983), approved in *School Bd. of Pinellas Cnty. v. District Court of Appeal*, 467 So.2d 985 (Fla. 1985).

10. Petitioners object to the dilatory and improper actions of Randy Yoho and/or Out of Bounds, Inc. and oppose further extension and the continued failure of Out of Bounds, Inc. to answer any of the discovery requests propounded on March 11, 2011; Mr. Yoho's filing should be stricken or disregarded as void.

11. Petitioners also object to Ms. Jahn's participation in Out of Bounds, Inc.'s dilatory actions, seeking to appear for two weeks to request reconsideration, and her willingness to mis-state the undersigned's response to the proposed motion; the undersigned received exactly one message regarding the motion and as reflected in the attached e-mail correspondence, the undersigned responded clearly.

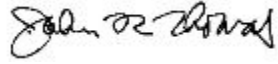
12. Delay causes prejudice to Petitioners, Petitioners' witnesses, and the undersigned, who have busy schedules, and need time to evaluate Out of Bounds, Inc.'s landfill application and plans within such schedules.

13. The undersigned had to spend an hour and three-quarters responding to Out of Bounds, Inc. and Randy Yoho's inappropriate and dilatory motions.

WHEREFORE, Petitioners oppose rehearing or reconsideration, oppose further extension of time, request F. Lorraine Jahn's and Randy Yoho's motions be stricken and denied, demand

full, detailed and immediate discovery responses, and request further sanctions for having to respond to Out of Bounds, Inc.'s dilatory practice.

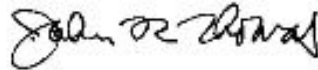
Respectfully Submitted,



JOHN R. THOMAS, ESQUIRE
LAW OFFICE OF JOHN R. THOMAS, P.A.
Florida Bar No. 0868043
233 Third Street North, Suite 101
St. Petersburg, Florida 33701
Telephone No.: (727) 550-9072
Counsel for Petitioners

Certificate of Service

I HEREBY CERTIFY that the foregoing has been served via E-Mail on May 2, 2011 upon Randy Yoho, F. Lorraine Jahn, Esq., and Ronni Moore, Esq..



JOHN R. THOMAS, ESQUIRE

John R Thomas, Esq

From: "John R Thomas, Esq" <jrthomasesq@earthlink.net>
To: <dcrmxaol.com>
Sent: Thursday, April 28, 2011 3:51 PM
Subject: Re: out of bounds, Inc
We object to both and will file a response. Thank you. John R. Thomas

----- Original Message -----

From: dcrmxaol.com
To: jrthomasesq@earthlink.com
Sent: Thursday, April 28, 2011 3:48 PM
Subject: out of bounds, Inc

Out of Bounds is filing a Motion for Rehearing of the April 21, 2011 order relating solely to whether the Responses to Requests for Admissions may be amended and signed by counsel or a qualified representative.

We are also filing an opposition to the Motion for Substitution of Party.

Do you have an objection to either of these motions??

Randy Yoho
352 588-4697

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