



Department of Environmental Protection

Lawton Chiles
Governor

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Virginia B. Wetherell
Secretary

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January 23, 1997

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Jack Shreve, Esquire
Public Counsel
Office of Public Counsel
c/o Florida Legislature
111 West Madison Street,
Room 812
Tallahassee, Florida 32399-1400

Dear Mr. Shreve:

The Florida Department of Environmental Protection (the FDEP) issued a permit to Sanlando Utilities, Inc. (Sanlando) effective November 30, 1992 to permit discharge of treated domestic wastewater into the Wekiva River. A condition of that permit was that Sanlando was required to seek permission from the Florida Public Service Commission (PSC) to construct a water reuse facility to allow a portion of the treated wastewater to be removed from the Wekiva River and used for irrigation purposes.

On March 10, 1993, Sanlando filed a Petition for a Limited Proceeding with the PSC to implement a water conservation plan, including reuse of reclaimed water through construction of a reuse facility designed to divert a substantial amount of Sanlando's treated wastewater from the Wekiva River to three golf courses and other reuse users. The PSC issued an order on December 10, 1993, approving Sanlando's Petition for Limited Proceeding to implement the water conservation plan and required Sanlando to establish an escrow account to deposit funds collected for construction of the reuse facility.

Several homeowners in the Sanlando Service Area filed protests to the Commission's December 10, 1993 order and your office intervened. The St. Johns River Water Management District (SJRWMD), the Friends of the Wekiva and the Florida Audubon Society each filed Petitions to Intervene, all of which were granted.

- ACK _____
- AFA _____
- APP _____
- CAF _____
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- EAG _____
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- LIN _____
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"Protect, Conserve and Manage Florida's Environment and Natural Resources"

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FPSC-RECORDS/REPORTING

Jack Shreve, Esquire
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Sanlando Utilities
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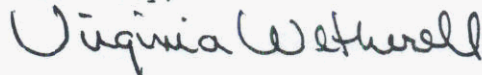
Through extended negotiations over a two (2) year period, a settlement was reached among the various parties and a Stipulation was agreed upon which provided for establishment of a non-profit corporation (the Corporation) to own the reuse facility. The Stipulation established rates for a reuse facility surcharge to be collected by Sanlando on behalf of the Corporation and placed in an escrow account to be used solely for construction of the reuse facility. After several hearings before the PSC, the Stipulation was finally approved by the PSC at a hearing on March 21, 1995. The parties executed the Stipulation after the March 21, 1995 hearing. The PSC's order approving the Stipulation based upon the March 21, 1995 hearing was issued on April 28, 1995. However, due to a dispute with the PSC staff, a motion to clarify the April 28, 1995 order was filed by the Office of Public Counsel. The dispute was finally resolved by an order issued by the PSC on October 2, 1995.

The Stipulation states in part in Paragraph 2 that "...the Corporation [which will own the reuse facility] shall immediately seek an opinion from the Internal Revenue Service that the collection and remittance by Sanlando of the reuse facility surcharge and the construction of the reuse facility for the Corporation are not taxable. The proposed ruling request shall be filed on behalf of the Corporation and the rate payers of Sanlando by the Office of Public Counsel. Until this opinion is rendered, the reuse facility surcharge shall not be implemented. If the IRS should decide that taxes would be due and owing on the surcharge if implemented, then this matter will be presented to the Commission for further action."

It is our understanding that the Office of Public Counsel is involved in the process of seeking an opinion from the Internal Revenue Service. Would you please provide me with an update on your progress in obtaining the opinion from the Internal Revenue Service, and keep me advised of your continuing progress.

Thank you.

Sincerely,



Virginia B. Wetherell
Secretary

VBW/vgs

cc: Honorable Lawton Chiles, Governor
Public Service Commission
Henry Dean, Executive Director, SJRWMD
John Lowndes, Esquire
Kenneth C. Crooks, Esquire
Nancy Prime, Friends of the Wekiva
Charles Lee, Florida Audubon Society