

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 26, 2008
TO: Ann Cole, Commission Clerk, Office of Commission Clerk
FROM: Jean Hartman, Senior Attorney, Office of General Counsel
RE: Docket Number 060122-WU

A handwritten signature in black ink, appearing to be "JH", written over the "FROM:" line of the memo.

Please place the attached documents in the above-referenced docket file. Thank you.

JEH/tfw

RECEIVED - FPSC
08 MAR 26 PM 3:35
COMMISSION
CLERK

DOCUMENT NUMBER-DATE

02286 MAR 26 08

FPSC-COMMISSION CLERK

COMMISSIONERS:
MATTHEW M. CARTER II, CHAIRMAN
LISA POLAK EDGAR
KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

STATE OF FLORIDA



GENERAL COUNSEL
MICHAEL G. COOKE
(850) 413-6248

Public Service Commission

February 25, 2008

VIA ELECTRONIC MAIL

John Wharton, Esquire
Rose, Sundstrom & Bentley LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301

Dear Mr. Wharton:

Staff is aware that the Office of Public Counsel's site visit to Aloha's water facilities scheduled for February 14, 2008, did not occur. It is staff's understanding that this meeting was postponed by Aloha because of a family medical emergency related to David Porter, Aloha's engineer for the anion exchange project. Other previously scheduled visits either were cancelled or postponed as well.

To assist the Public Service Commission in resolving issues involving the anion treatment system, the exchange of information between the Office of Public Counsel and Aloha is essential. Accordingly, please provide staff with your understanding of the intended purpose of the water facilities site visit, including the type of information that Office of Public Counsel desires to obtain and Aloha's willingness to provide such information. Also include in your response a written explanation with details of the circumstances of the cancellation of the February 14th site visit, how notification was effected, and what, if any, other options were considered in light of Mr. Porter's unavailability.

In addition, please clarify future plans for the site visit (which staff understands might be rescheduled for later this week).

Please provide your response to staff no later than the close of business February 27, 2008.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael G. Cooke".

Michael G. Cooke
General Counsel

MGC:tf
cc: Steve Reilly
Tim Devlin

DOCUMENT NUMBER DATE
02286 MAR 26 08
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NATHAN A. SKOP

STATE OF FLORIDA



GENERAL COUNSEL
MICHAEL G. COOKE
(850) 413-6248

Public Service Commission

February 25, 2008

VIA ELECTRONIC MAIL

Stephen C. Reilly, Esquire
Office of the Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-6588

Dear Mr. Reilly:

Staff is aware that the Office of Public Counsel's site visit to Aloha's water facilities scheduled for February 14, 2008, did not occur. It is staff's understanding that this meeting was postponed by Aloha because of a family medical emergency related to David Porter, Aloha's engineer for the anion exchange project. Other previously scheduled visits either were cancelled or postponed as well.

To assist the Public Service Commission in resolving issues involving the anion treatment system, the exchange of information between the Office of Public Counsel and Aloha is essential. Accordingly, please provide staff with information regarding the intended purpose of the water facilities site visit, including the type of information that needs to be obtained. Also include in your response a written explanation with details of the circumstances of the cancellation of the February 14th site visit, how notification was effected, and, to the best of your knowledge, what, if any, other options were considered by the company in light of Mr. Porter's unavailability.

In addition, please clarify future plans for the site visit (which staff understands might be rescheduled for later this week).

Please provide your response to staff no later than the close of business February 27, 2008.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael G. Cooke".

Michael G. Cooke
General Counsel

MGC:tf
cc: J. R. Kelley
John Wharton
Tim Devlin

LAW OFFICES

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DIANE D. TREMON, P.A.
JOHN L. WHARTON

ROBERT M. C. ROSE, (1924-2006)

(850) 877-6555
FAX (850) 656-4029
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February 27, 2008

VIA ELECTRONIC MAIL

CENTRAL FLORIDA OFFICE
SANLANDO CENTER
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SUITE 2118
LONGWOOD, FLORIDA 32779
(407) 830-6331
FAX (407) 830-8522

MARTIN S. FRIEDMAN, P.A.
BRIAN J. STREET

CHRISTIAN W. MARCELLI, OF COUNSEL
(LICENSED IN NEW YORK ONLY)

Michael G. Cooke, General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Dear Mr. Cooke:

Thank you for your letter of February 25, 2008, and your e-mail of February 22, 2008. We appreciate staff's continuing involvement in the implementation of the anion exchange project. The purpose of this response is not only to provide the information you requested in your February 25, 2008 letter, but to make sure that Aloha's obligations under the Settlement Agreement and the Commission's various Orders are not overlooked or misconstrued by either the staff, the Office of Public Counsel, or the Commissioners themselves.

Your e-mail of February 22, 2008 stated that before we could move forward with the scheduled conference call to discuss "proposed resolution of the anion waste disposal issue" OPC "needed to have certain engineering questions answered". Similarly, your February 25, 2008 letter stated that "the exchange of information between the Office of Public Counsel and Aloha is essential" to the PSC "in resolving issues involving the anion treatment system". The purpose of this correspondence is not to specifically put undue emphasis on these two statements, but rather to clarify what appears to us to be an ever increasing and pervasive misunderstanding of what the Settlement Agreement provides, what the Commission has directed Aloha to do, and of Aloha's responsibilities with regard to the implementation of these requirements.

The implementation of the anion exchange project is Aloha's responsibility, and Aloha's responsibility alone, consistent with Order No. PSC-06-0270-AS-WU ("the Order"). When Aloha reluctantly agreed to provide a tour to OPC of the well sites, water treatment plants and certain other areas where the anion project related facilities are proposed to be placed, it did so absent any requirement of any existing rule, statute, order, or the Settlement Agreement, and it did so knowing full well that OPC was likely to begin to view such access to additional information as an ever expanding entitlement. That is exactly what has happened. Under the Order and the Settlement Agreement, Aloha is under no obligation to cooperate with intermittent and sporadic requests for information, documents, data, and site visits from OPC. Based on recent actions and threats of action by OPC and certain of its clients, Aloha does so to its detriment with regard to its ability to move forward with the project and to comply with the Settlement Agreement and Commission Order. OPC was urged to hire an engineer when the anion process was being selected and declined to do so until long after the Order Approving Settlement Agreement was issued.

Now is no time for OPC to be attempting to reinvent the wheel, the treatment process, or the terms of the Settlement Agreement. The Order does not allow for the delays that would result from the same, and Aloha is under no obligation to assist OPC in such an effort. On the contrary, Aloha is under an obligation to move forward with the project without revisitation of those aspects and issues related to anion exchange which are, by the terms of the Order and the Settlement Agreement, settled and established matters.

It is important for all parties to this Settlement Agreement (including the Commission) to step back and recall that:

- *This Settlement Agreement is not merely "the parties' settlement agreement". This Settlement Agreement is incorporated by reference in the Order and is approved by the Order as "in the public interest".*
- *The Settlement Agreement specifically provides that anion exchange is an "economically, technologically, environmentally feasible" alternative technology that meets or exceeds the sulfide removal capacity of forced draft aeration.*

4011

- *This Commission has specifically found that the implementation of anion exchange is prudent and that anion exchange should be implemented at Plants 2, 6, 8, 9, and Mitchell (treating Wells 3 and 4).*

- *This Commission has specifically found that the cost of anion exchange shall be considered an environmental compliance cost under Section 367.081(2), Florida Statutes.*

- *This Commission has specifically found that the reasonable cost of anion exchange facilities sized to treat the full current pumping capacity of the wells at Plants 2, 6, 8, 9, and Mitchell (treating Wells 3 and 4) shall be recoverable through rates.*

- *This Commission has specifically found that the anion exchange facilities will be considered 100% used and useful.*

- *This Commission has specifically found that any substantially affected party may challenge, the Commission staff may audit, or the Commission may review, the reasonableness of the specific costs incurred in implementing anion exchange at the time Aloha seeks recovery of the related costs; however, that review may not revisit for rate making purposes the fundamental agreement that anion exchange is a prudent option which should have been implemented.*

Aloha's obligation under the Settlement Agreement and the Order is to implement the project in good faith and to file quarterly reports on the progress of implementation and to attend quarterly meetings, arranged by staff, to review those quarterly reports. There is absolutely no requirement of Aloha to provide information to OPC, to be subjected to discovery from OPC, to agree to site visits or on-the-spot interrogations of its employees or experts by OPC, or even to conduct the site visit which Aloha has voluntarily agreed to provide OPC. Now OPC has predictably sought to exploit this voluntary site visit to its own benefit and Aloha's detriment. As you know, a site visit was easily arranged within the course of a single week recently for the Commission's engineer and the site visit took place as scheduled. OPC and its engineer declined to attend that site visit despite the invitation to do so, ostensibly because of the responsibilities of their counsel (although the site visit was originally envisioned by OPC itself as involving only OPC's engineer and Aloha's engineer).

Aloha has every intention of adhering to the Order and the Settlement Agreement, but that does not involve going backwards or revisiting determinations which have been made in the Order (such as the prudence of this project, the used and usefulness of this project, the environmental compliance nature of this project, etc.). Aloha cannot effectively move forward with the project or implement the Order if it is now required to somehow provide information on demand to OPC and its experts so that they can either pursue some "parallel track" in designing and implementing the project and/or so that they can come up with "new ideas" that were thoroughly reviewed during the discussions that resulted in the Settlement Agreement and/or that will only have the affect of delaying implementation of this project to the detriment of Aloha and the customers. It has been made clear to Aloha that while OPC expresses a desire to consider new options (thus by necessity delaying Aloha's implementation of the Order), its most vocal and powerful clients are calling for abandonment of the settlement and a return to litigation.

Aloha does not have either the power, or the desire to threaten the Commissioners; to prefile legislation which only seeks to distract from the necessary solutions to this project; to write the Commissioners directly with demands; or to show up at agenda and take a position which is completely contrary to the spirit of what has previously been agreed to between the parties. However, Aloha does clearly understand what it has been ordered to do and it intends to move forward, without further distraction or side show, consistent with that Order. Aloha has met with repeated criticism from several of OPC's highest profile clients, and even the Commissioners themselves alleging that Aloha has been the cause of delay. Therefore, any revisitation of the clear findings of the Order must be upon the impetus of OPC, the customers, the Commission staff, or the Commission itself. Aloha's marching orders are clear from the Order and it does not intend to inextricably intertwine itself with OPC or its engineer in the implementation of this project to its own inevitable detriment.

Your letter of February 25, 2008, asks several questions about the last postponement of the anion site visit referenced hereinabove. We believe most of these facts were already known to the Commission, but we set them forth here again for your ready review:

- On Monday morning, February 11, Mr. Porter arrived at our office in Tallahassee to prepare for the next day's agenda. We had obviously asked Mr.

Porter to travel to Tallahassee because we felt his attendance at the agenda was important. Previously scheduled medical tests that Mr. Porter and his wife had hoped would identify an on-going issue actually revealed an emergency situation, and Mrs. Porter was unexpectedly admitted to the hospital with a life threatening condition. Mr. Porter immediately returned to his home in Green Cove Springs as a result of this emergency hospitalization.

- Immediately thereafter, at 2:40 pm on the 11th, the undersigned sent an e-mail to staff counsel, Ms. Hartman, saying that Mr. Porter had to return home for a family emergency and that it was highly unlikely that he would be in attendance at the agenda. Ms. Hartman was asked whether Mr. Porter could participate in the agenda by telephone and the arrangements that he attend the agenda by telephone were subsequently made.

- The next day, Mr. Porter attended the agenda by telephone. In retrospect, Mr. Porter's inability to attend the agenda was much to Aloha's detriment since he was not able to review the language that OPC successfully persuaded the Commission to insert into the Proposed Agency Action (which OPC had never revealed to Aloha until over four hours into the agenda conference) and as to which Mr. Porter's input would have been invaluable.

- The following day (Wednesday, February 13th) the condition of Mr. Porter's wife (and Mr. Porter's related unavailability) were monitored closely by this office. Within five minutes of learning that Mr. Porter did not feel he would be able to attend the site visit in Pasco County (the next day) due to the fact that his wife was still in the hospital and her condition was uncertain (and noting that a staff engineer had on Wednesday morning requested to see the facilities and that he could not make it for the scheduled visit on the 14th in any case) the tour was postponed and a date for the next week was suggested and scheduled within 48 hours.

- The e-mail communicating the postponement was sent to Mike Cooke and to Steve Reilly at 11:48 am on the 13th. Mr. Reilly is an individual who often uses e-mail as a means of communication and, more notably, to serve his pleadings upon other parties, so it can hardly be claimed that e-mail is not an effective method of communicating the postponement to him. Additionally, it is our understanding that Mr. Cooke called Mr. Reilly's office shortly thereafter. Finally, our office contacted Mr. Reilly's office to make sure that he had received the e-

mail within a few hours of its transmission.

- While it was completely unknown to Aloha at the time, we have now learned that Mr. Reilly was in fact in Pasco County area for three days even though the anion site visit tour was anticipated to take roughly three hours. While Mr. Reilly obviously had significant or substantial activities other than the site tour planned in Pasco County, and despite the fact that 24 hours notice for a 3 hour tour was given, he chose to politicize the circumstances of a medical emergency; he also obviously provided information to Senator Fasano who also chose to exploit the family medical emergency for political and other agendized reasons; and he then declined to attend the rescheduled tour which did occur one week later for the PSC staff engineer.

- This site tour was originally envisioned and agreed to by Aloha as only involving OPC's engineer and Aloha's engineer, Mr. Porter. Aloha ultimately only agreed to the attendance of OPC staff counsel at the request of Mr. Cooke. The inability of Mr. Reilly to attend the rescheduled site visit (which did take place as scheduled on February 20) was not a sound basis for the refusal to attend the scheduled tour.

- You have asked what other options were considered in light of Mr. Porter's unavailability. No other options were considered. This project is in design. The anion exchange facilities do not yet exist. The knowledge of Mr. Porter of these yet to be constructed facilities is and remains the primary value of the tour. If Aloha wanted to "game" this tour, it could have sent the undersigned, who knows very little about the facilities, or it could have sent Mr. Watford, who is not an engineer and who is not nearly as familiar with the project as is Mr. Porter, to conduct the tour. Instead Aloha, consistent with the original discussions that this meeting would take place between engineers, assumed that the tour needed to be conducted by Aloha's engineer who is overseeing this project. When, in fact, the meeting was quickly rescheduled (OPC took five days to respond to the offered date for the rescheduling) OPC declined to attend.

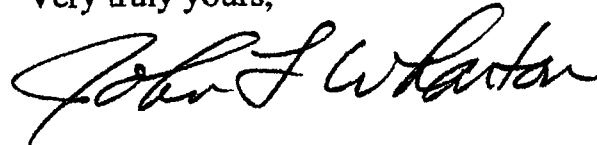
- You have asked us to clarify future plans for the site visit and to provide our understanding of the intended purpose of the site visit. While the aforementioned events, as well as several matters unmentioned, have done nothing to increase our confidence in the genuineness of OPC's agenda in requesting this site visit, a site visit is currently scheduled for this week, Friday, February 29, and

its intended purpose is unchanged. Mr. Porter will show those in attendance (anticipated to be OPC's lawyer, Aloha's lawyer, OPC's engineer, Mr. Cooke, and Mr. Porter) Aloha's water facilities as they relate to the anion exchange project, and will answer questions about the proposed anion exchange system. Aloha is conducting the tour as an accommodation and a courtesy, neither of which Aloha has received from OPC as of late.

Aloha intends to fulfill its every obligation under the PSC's rules, statutes, the Order, and the Settlement Agreement, but it does intend to allow OPC, or other high profile customers, to place it in a detrimental or vulnerable position under the facade of cooperation.

Should you have any questions or concerns regarding the above, please do not hesitate to contact us at your earliest convenience.

Very truly yours,



JOHN L. WHARTON

For the Firm

JLW/bsr

cc: Stephen Watford
Steve Reilly
Tim Devlin

aloha\49\cooke feb 27

KEN PRUITT
President of the Senate



J.R. Kelly
Public Counsel

STATE OF FLORIDA
OFFICE OF PUBLIC COUNSEL

C/O THE FLORIDA LEGISLATURE
111 WEST MADISON ST.
ROOM 812
TALLAHASSEE, FLORIDA 32399-1400
850-488-9330

EMAIL: OPC_WEBSITE@LEG.STATE.FL.US
WWW.FLORIDAOPC.GOV

MARCO RUBIO
Speaker of the House of Representatives



February 28, 2008

Michael G. Cooke
General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Mr. Cooke:

The following is offered in response to your February 25, 2008 letter.

Purpose of Site Visit/Needed Information

Since mid-November, 2007 OPC has been communicating with Aloha Utilities (Aloha) for the purpose of scheduling a mutually agreeable date to allow me and our engineer consultant to inspect Aloha's water facilities, discover necessary information to permit the evaluation of the anion exchange/brine disposal problem, and inspect facilities associated with the bulk purchase of water. Aloha has always alleged that the anion exchange Docket No. 060606-WS and the bulk water purchase/chloramination Docket No. 060122-WU are necessarily related and dependent upon each other. Any serious attempt to propose solutions to the anion exchange/brine disposal problem can not be accomplished without complete understanding of all of the engineering issues presented in Docket No. 060122-WU. For this reason, and to help avoid unnecessary expense for our office and Aloha, it has always been our intention to conduct only one inspection to

February 28, 2008

Page 2

discover the necessary information to address the issues involved with both Dockets Nos. 060606-WS and 060122-WU.

According to our engineer the scope of the inspection and the data needed to propose possible alternative solutions include:

Determine the facilities actually constructed for the chloramination process at each site.

Determine the availability of land for future hydrogen sulfide control (anion exchange) facilities at each site.

Determine the existing facilities and available space within the existing well site buildings.

Obtain data relating to flows, pressures, instrumentation and control equipment, and parameters at each site.

Clarification on the location of the proposed inter-connect site (the drawings given to OPC are different from the ones given to Mosquito Control).

Additional information needed from Aloha in order to set-up the Aloha system hydraulic model and adequately analyze possible cost-effective solutions to the brine disposal problem include:

System map (to scale) showing all major lines, with locations and sizes

Locations and average usage for "large-users"

Pump curves for pumps located at the 500,000 gallon ground storage tank
Static levels at each well, and pump curves for each well

Instrumentation and control parameters

Cancellation of the 2/14/08 site visit

Two earlier attempts to schedule inspections of Aloha's water facilities, in November and December 2008, ended unsuccessfully. We were successful in

scheduling the inspection for January 31, 2008, but that inspection was cancelled, too. The inspection was rescheduled for Thursday, February 14, 2008.

On the morning of February 13, 2008 I called John Wharton's office and spoke to his assistant Ms. Revell. I told her I was literally going out the door to travel to New Port Richey and I needed her to send me written confirmation of the time and location of the well site where the inspections would begin. She told me she had already e-mailed me this information and directions to the well site earlier that morning. While she was on the line I located the e-mail and thanked her for her assistance. Shortly thereafter I left because my first meeting was scheduled for 2:00 p.m. in New Port Richey.

It was only after I and our engineer consultant had completed our first meeting in New Port Richey, at about 3:30 p.m., that I learned about the inspection being cancelled again. I learned, that after I had left the office to travel to New Port Richey, that two e-mails had been sent cancelling the inspection. Attached to this letter are copies of the 2/13/08, 8:11 a.m. and 11:58 a.m. and 3:06 p.m. e-mails. Aloha has not provided me with any information about what options were considered by the Company in light of Mr. Porter's unavailability on February 14, 2008.

As you know I was working on the brief for Docket No. 070183-WU until 5:00 p.m. on Tuesday, February 26, 2008. On Wednesday, February 27, 2008 I spoke with Marty Deterding expressing concern about his e-mail to me which stated that the scope of the inspection would be limited to the anion exchange docket and the proposed locations of those facilities (See attached copy of the e-mail). In the conversation he confirmed that inspections and discussions about the purchase of bulk water, the interconnection facility and any plans for storage would be off-limits.

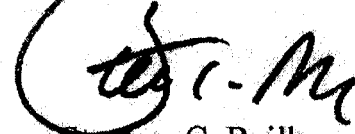
For the reasons stated above I told him that such a limitation would make it impossible for the Citizen's engineer to discover the information he needs to be able to propose solutions to the anion exchange/brine problem. Further, that it would be a waste of Public Counsel's and the Company's time and resources to not schedule a single visit for both dockets. I told him that I would need to speak with J.R. Kelly, but I did not think the inspection should take place under Aloha's limitations.

February 28, 2008
Page 4

I have now spoken to J.R. Kelly, and I can confirm that OPC remains committed to arranging a mutually agreeable time to schedule an inspection, to be attended by me and our engineer, for the purpose of discovering the information necessary to propose cost-effective alternative solutions to the anion-exchange /brine problem. The scope of this single inspection needs to be the discovery of information to address the issues involved with both of these interrelated Dockets Nos. 060606-WS and 060122-WU. Any assistance your office can provide to facilitate such an inspection will be appreciated.

I trust the above is responsive to your February 25, 2008 letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen C. Reilly", enclosed within a circular scribble.

Stephen C. Reilly
Associate Public Counsel

Cc: John Wharton
Tim Devlin

SCR/bsr

Attachments

REILLY.STEVE

From: Bronwyn Revell [BRevell@RSBattorneys.com]
Sent: Wednesday, February 13, 2008 8:11 AM
To: REILLY.STEVE; mcooke@psc.state.fl.us
Cc: David Porter; John Wharton
Subject: Directions to Well 9
Attachments: _0212094729_001.pdf; _0213080914_001.pdf

Good morning, gentlemen.

I have attached Mapquest directions for Well 9.
John will see you there tomorrow at 1:00.

Bronwyn

Directions to New Port Richey, FL 34655



Summary and Notes

START **A** Aloha Utilities Incorporated (727) 372-0115
6915 Perrine Ranch Rd, New Port Richey, FL 34655-3904

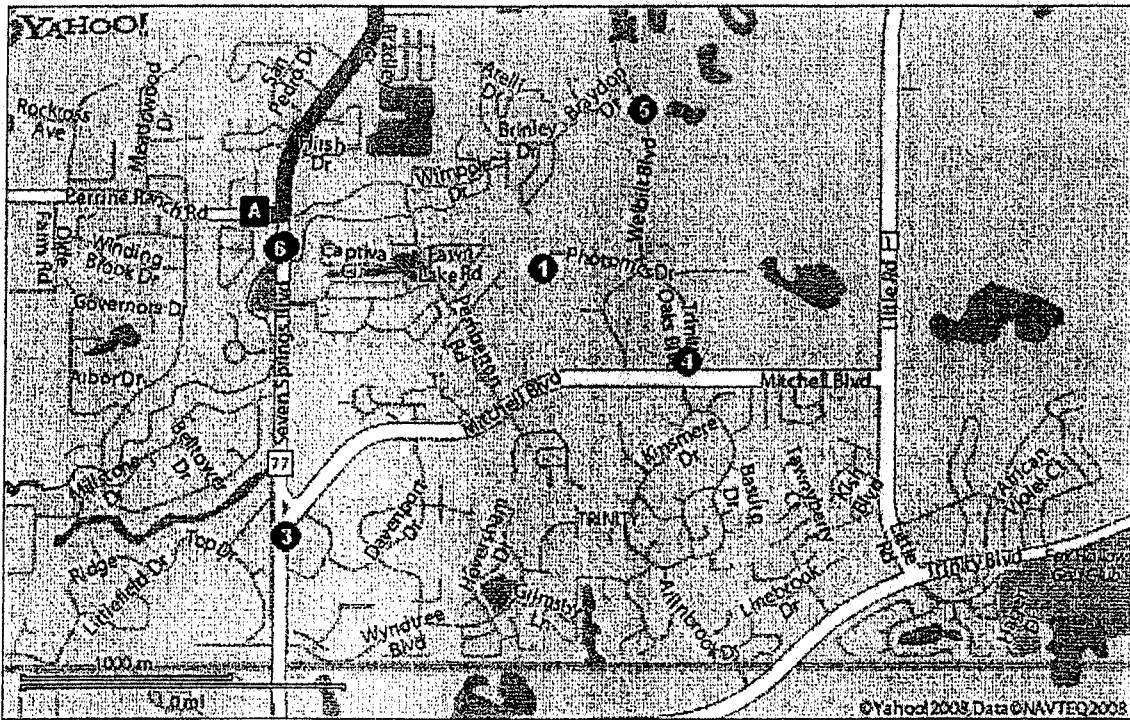
FINISH **B** Little Rd & Mitchell Blvd, New Port Richey, FL 34655

Total Distance: 3.1 miles, Total Time: 5 mins (approx.)

Add your notes here...

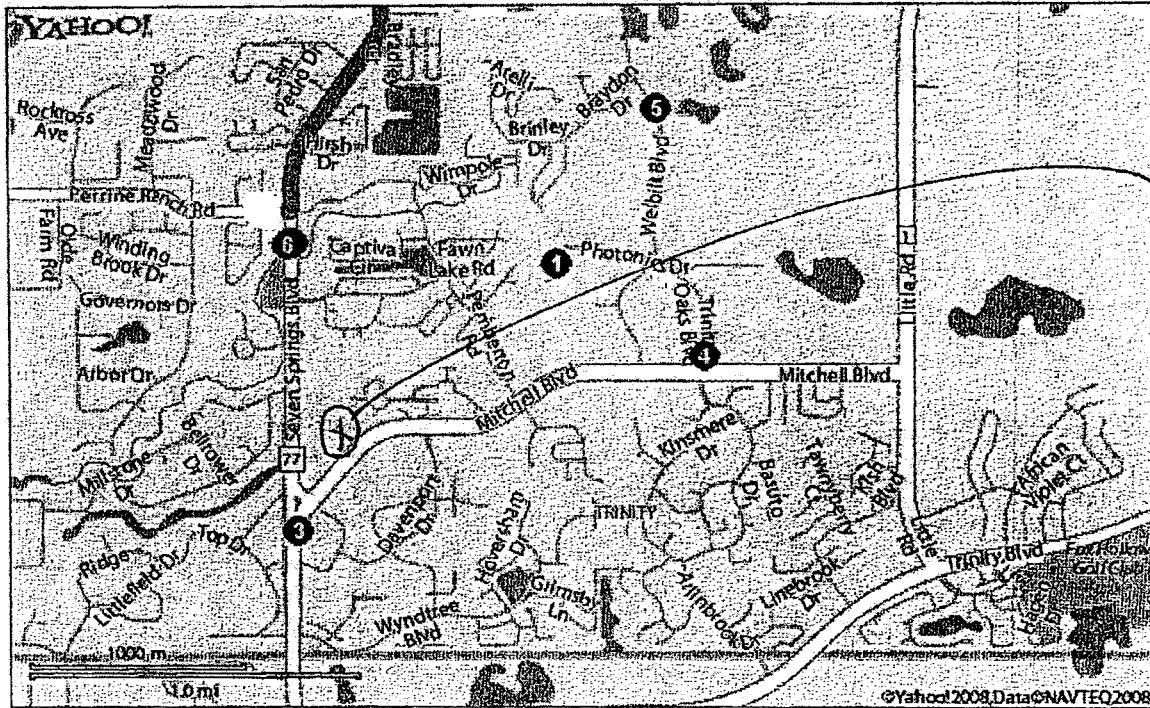
- Distance
- A** 6915 PERRINE RANCH RD, NEW PORT RICHEY, FL 34655-3904
1. Start at 6915 PERRINE RANCH RD, NEW PORT RICHEY go 0.1 mi
 2. Turn **R** on SEVEN SPRINGS BLVD(CR-77) go 1 mi
 3. Turn **L** on MITCHELL BLVD go 2.1 mi
 4. Arrive at LITTLE RD & MITCHELL BLVD, NEW PORT RICHEY go < 0.1 mi
- B** LITTLE RD & MITCHELL BLVD, NEW PORT RICHEY, FL 34655

Distance: 3.1 miles, Time: 5 mins



Your Points of Interest

1. Vloc (727) 375-8562
7826 Photonics Dr Trinity, FL 34655
2. Massage Therapy Ctr of Florida (727) 372-9388
2330 Seven Springs Blvd New Port Richey, FL 34655



Well #9

REILLY.STEVE

From: John Wharton [johnw@RSBattorneys.com]
Sent: Wednesday, February 13, 2008 11:58 AM
To: Cooke, Michael
Cc: REILLY.STEVE
Subject: Site visit

Mike,

As I believe you are aware, Dave Porter had to leave Tallahassee Monday on a medical emergency, and his wife is still in the hospital, and it is not possible for Dave to join us in Pasco tomorrow. Accordingly, the tour will need to be postponed.

Additionally, a staff engineer has requested to see the facilities, and he can not make it tomorrow in any case.

Tomorrow, when I am back in my office, I will arrange a rescheduling. We will shoot for next week.

John L Wharton, Esq.
Rose, Sundstrom, & Bentley

Sent from my Treo

REILLY.STEVE

From: Bronwyn Revell [BRevell@RSBattorneys.com]
Sent: Wednesday, February 13, 2008 3:06 PM
To: REILLY.STEVE; mcooke@psc.state.fl.us
Cc: DAVIS.PHYLLIS
Subject: Site Visit on Feb 14

I just wanted to make sure everyone is aware of tomorrow's visit being postponed. Please let me know that you received this.

Bronwyn

Mike,

As I believe you are aware, Dave Porter had to leave Tallahassee Monday on a medical emergency, and his wife is still in the hospital, and it is not possible for Dave to join us in Pasco tomorrow. Accordingly, the tour will need to be postponed.

Additionally, a staff engineer has requested to see the facilities, and he can not make it tomorrow in any case.

Tomorrow, when I am back in my office, I will arrange a rescheduling. We will shoot for next week.

John L Wharton, Esq.
Rose, Sundstrom, & Bentley

Jean Hartman

From: Michael Cooke
Sent: Wednesday, March 19, 2008 10:20 AM
To: Tim Devlin; Marshall Willis; Jean Hartman; Richard Redemann
Subject: FW: Aloha site visit

From: John Wharton [mailto:johnw@RSBattorneys.com]
Sent: Wednesday, March 19, 2008 8:50 AM
To: REILLY.STEVE
Cc: KELLY.JR; khatcher@baskervilledonovan.com; Michael Cooke; Bronwyn Revell; Steve Watford; David Porter
Subject: RE: Aloha site visit

That's fine.

John L. Wharton, Esq.
Rose, Sundstrom, & Bentley, LLP
2548 Blairstone Pines Dr.
Tallahassee, Fl. 32301
(850) 877-6555 - telephone
(850) 656-4029 - facsimile

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Thank you.

From: REILLY.STEVE [mailto:REILLY.STEVE@leg.state.fl.us]
Sent: Tuesday, March 18, 2008 3:32 PM
To: John Wharton
Cc: KELLY.JR; khatcher@baskervilledonovan.com; mcooke@psc.state.fl.us
Subject: RE: Aloha site visit

Our engineer suggests that we begin the inspection at 10:00 AM on 3/27/08. Let me know as soon as possible if this time and date is agreeable to the Company.

From: John Wharton [mailto:johnw@RSBattorneys.com]
Sent: Tuesday, March 18, 2008 12:13 PM
To: REILLY.STEVE; MCOOKE@PSC.STATE.FL.US
Cc: Steve Watford

3/19/2008

Subject: Aloha site visit

Steve,

We can accommodate the site visit on either March 26th or 27th. If the purchased water PAA is protested, or if there is a significant development with regards to FGUA's abatement suggestion, we may need to readdress the parameters of the visit.

Let us know as soon as possible which date works best for you.

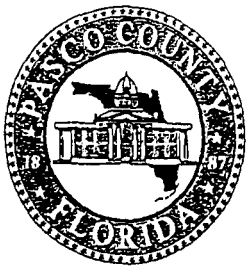
John L. Wharton, Esq.
Rose, Sundstrom, & Bentley, LLP
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Thank you.

1/1/08

3/19/2008



PASCO COUNTY, FLORIDA

December 6, 2007

RECEIVED DEC 11 2007

Mr. Dale D. Ernsberger, P.E.
Civil Engineering Associates, Inc
1418 Fishing Lake Drive
Odessa, FL 33556

Reference: Aloha Utilities – Pasco County Interconnect
Booster Pump Station
PCU08-007.P.1

Dear Mr. Ernsberger:

We have reviewed the Aloha Pressure Control Station documents you have provided, including the Drawings signed and sealed on 10/7/07 (also revised sheets 2 and 3; signed and sealed on 11/8/07), Abbreviated Engineering Report and FDEP Permit Application, and have the following comments:

1. The County's standard flow meter with backflow preventer will be used for billing purposes. The flow meter must comport with Pasco Standard Detail 02, which requires the inlet and discharge piping be identical to meter inlet size.
2. The meter and the flow control valve assembly (hereinafter referred to as the "Assembly") must be located together, in a separately fenced area with a minimum of 10 feet clear space around all sides of any piping/electrical facilities for access and maintenance. Provide adequate space for parking for 2 vehicles. Provide fence with barbed wire and 10-foot wide access gate. Provide adequate lighting for nighttime maintenance.
3. Furnish the County with fee simple title to the site or a perpetual easement for operation and maintenance of the Assembly.
4. The supply line upstream of the Assembly will be owned and maintained by the County. As such, if the pipe is not installed in County ROW, an easement must be provided to the County for access and maintenance of this line.
5. The flow control valve (FCV) piping layout must comport with the manufacturer's installation recommendation of 10 diameters upstream and 5 diameters downstream of the meter. The FCV must be provided with rate-of flow, backpressure sustaining and remote open/close (via solenoid) functions.
6. The FCV orifice plate is not an acceptable device and metering should be utilized by the use of a 12x6 compound meter or some other acceptable metering device that accurately measures rate of flow over the existing range.

7. A Rosemount Absolute Pressure Transmitter must be provided on the upstream side of the FCV for local and remote monitoring of the supply pressure to the Assembly.
8. A Pasco County standard Data Flow Systems Remote Telemetry Unit (RTU) with antenna must be installed to allow the County to remotely monitor and control the FCV. The RTU shall have one (1) digital output for open/close control of the FCV (solenoid) and two (2) analog inputs for the flow and pressure signals.
9. Provide a hose bib on the upstream side of the Assembly, within the fenced area, for the County's use.
10. Provide a 120 VAC receptacle within the fenced area for the County's use.
11. Per our maintenance staff, please be advised that we control corrosion in our systems with the addition of sodium chloride which raises the PH level to approximately 7.9-8.0.
12. As mentioned in your cover letter with the submittal, package submitted including report and drawings is conceptual at 60% complete, therefore, it is not appropriate for us to sign the permit application until detailed design is provided.
13. If Aloha elects to proceed with this connection to County water system as presently proposed, be assured that there will be times of the day when the County's system may **not** be able to deliver water to Aloha due to pressure differences in our systems. As previously discussed, the County still recommends that Aloha construct a storage and re-pump facility to ensure that this connection can deliver an adequate quantity of water to Aloha and Aloha can pump this water into its system at an adequate pressure for its customers during peak hour demand.

Before the County can execute the FDEP Permit Application, Aloha will need to address each of the items listed above. In addition, as provided for in our service agreement, Aloha will need to compensate the County for the engineering services the County's consultant has expended in modeling the proposed connection and basis of design. We will provide you with a summary of these services, and the cost thereof, under separate cover.

Should you have any questions regarding the foregoing, please advise.

Sincerely,



Bruce E. Kennedy, P.E.
Assistant County Administrator - Utilities

BEK/ah

Cc: Glenn Greer, P.E., Utilities Engineering Director
Marvin Kaden, Lead Plant Operator
Mr. Steven Watford, President, AUI, 6915 Perrine Ranch Rd, New Port Richey, FL 34655
Thomas Traina, P.E., King Engineering

CIVIL ENGINEERING ASSOCIATES INC.

January 15, 2008

Mr. Bruce Kennedy, P.E., Assistant County Administrator
West Pasco Government Complex
Public Works/Utilities Bldg., Suite 213
7530 Little Road
New Port Richey, Fl 34654

Reference: Aloha Utilities – Pasco County Interconnect
Booster Pumping Station
Pasco County Reference No. PCUO8-007.P.1

Subject: Response to Pasco County Letter of December 6, 2007

Dear Mr. Kennedy:

On December 19, 2007, we mailed a letter dated December 18, which responded to each of the items set forth in your letter of December 6, 2007. To date, we have received no reply as to whether our responses addressed all of your concerns. We would appreciate your earliest reply as we are proceeding acquiring the property and completing the design documents. As soon as we receive a control schematic from Rocha Controls, we will forward it to you for review. We have not received a response from Cla-Val but anticipate it later this week.

If you require any additional information, or have any questions, please telephone.

Sincerely,
CIVIL ENGINEERING ASSOCIATES, INC.

Dale D. Ernsberger, P.E.
de/de

cc: S. Watford, Aloha Utilities; M. Deterding, RSB; D. Porter P.E.

CIVIL ENGINEERING ASSOCIATES INC.

December 18, 2007

Mr. Bruce Kennedy, P.E., Assistant County Administrator
West Pasco Government Complex
Public Works/Utilities Bldg., Suite 213
7530 Little Road
New Port Richey, FL 34654

Reference: Aloha Utilities – Pasco County Interconnect
Booster Pumping Station
Pasco County Reference No. PCU08-007.P.1

Subject: Response to Pasco County Letter of December 6, 2007

Dear Mr. Kennedy:

This letter is in response to your letter of December 6, 2007, in which you enumerated a number of additional items (13), which must be accomplished before you will be able to sign the FDEP Permit application for Aloha. Please remember that we left our review meeting with you and Mr. Hanna with the understanding that we needed only to revise the drawings to show the meter and flow control valve assembly on the station site and show the meter assembly in accordance with your detail furnished to us by Mr. Hanna. Imagine our chagrin after receiving your letter; however, we intend to comply with your request as outlined below in order to get this project back on schedule.

We will address your comments in order:

1. **The County's standard flow meter with backflow preventer will be used for billing purposes. The flow meter must comport with Pasco Standard Detail 02, which requires the inlet and discharge piping be identical to meter inlet size.**

Response: The meter assembly detail will be revised to reduce pipe size at each end of the assembly, below grade, in accordance with the detail.

2. **The meter and the flow control valve assembly hereafter referred to as the "Assembly") must be located together, in a separately fenced area with a minimum of 10 feet clear space around all sides of any piping/electrical facilities for access and maintenance. Provide adequate space for parking for 2 vehicles. Provide fence with barbed wire and 10-foot wide access gate. Provide adequate lighting for nighttime maintenance.**

Response: We will hereafter refer to the meter and flow control valve assembly as the "Assembly". Two parking spaces will be provided. Piping will be moved to provide 10 feet on each side of the "Assembly". It will be surrounded by a six-foot

1418 Fishing Lake Drive
Odessa, FL 33556

TEL 813-903-0904
FAX 813-926-6187

December 18, 2007
Mr. Bruce Kennedy, P.E
Aloha Utilities – Pasco County Interconnect
Pasco County Reference No. PCUO8-007.P.1

Page 2

chain-link fence with three strands of barbed wire on top. A weatherproof duplex receptacle will be provided for use with portable lighting systems.

3. **Furnish the County with fee simple title to the site or a perpetual easement for operation and maintenance of the Assembly.**

Response: As we have previously discussed, this facility is temporary and will be removed when the permanent storage & pumping station is constructed. At that time, the meter will be relocated to a permanent location with fee simple title or perpetual easement.

4. **The supply line upstream of the Assembly will be owned and maintained by the County. As such, if the pipe is not installed in County ROW, an easement must be provided to the County for access and maintenance of this line.**

Response: OK

5. **The flow control valve (FCV) piping layout must comport with the manufacturers installation recommendation of 10 diameters upstream and 5 diameters downstream of the meter. The FCV must be-provided with rate-of-flow, backpressure sustaining and remote open/close (via solenoid)- functions.**

Response: The FCV will comport with the manufacturers installation recommendations, however, there does not appear to be any requirements for the FCV to be mounted 10 diameters upstream and 5 diameters downstream of the meter. The installation will accommodate the meter manufacturers' setback requirements. A remote open-close solenoid valve can be provided for Pasco County Water System to immediately shut off water to Aloha. A pressure sustaining function will be added to the valve.

6. **The FCV orifice plate is not an acceptable device and metering should be utilized by the use of a 12x6 compound meter or some other acceptable metering device that accurately measures rate of flow over the existing range.**

Response: The orifice plate is not utilized for measuring flow rate directly, but is used to create a pressure differential that can be calibrated against the meter.

December 18, 2007
Mr. Bruce Kennedy, P.E
Aloha Utilities – Pasco County Interconnect
Pasco County Reference No. PCUO8-007.P.1

Page 3

CLA-VAL has been contacted and is exploring the possibility of controlling the valve via signal output from the meter. If so, it will be installed.

7. **A Rosemount Absolute Pressure Transmitter must be provided on the upstream side of the FCV for local and remote monitoring of the supply pressure to the Assembly.**

Response: A Rosemount Absolute Pressure Transmitter will be provided but we intend to set the Pressure Transmitter to measure Gage pressure, instead of Absolute pressure.

8. **A Pasco County standard Data Flow Systems Remote Telemetry Unit (RTU) with antenna must be installed to allow the County to remotely monitor and control the FCV. The RTU shall have one (1) digital output for open/close control of the FCV (solenoid) and two (2) analog inputs for the flow and pressure signals.**

Response: These will be provided.

9. **Provide a hose bib on the upstream side of the Assembly, within the fenced area, for the County's use.**

Response: A hose bib will be provided.

10. **Provide a 120 VAC receptacle within the-fenced area for the County's use.**

Response: A 120 VAC receptacle will be so provided.

11. **Per our maintenance staff, please be advised that we control corrosion in our systems with the addition of sodium chloride which raises the PH level to approximately 7.9-8.0.**

Response: We believe you mean Sodium Hydroxide instead of Sodium Chloride. We understand that Pasco County uses Sodium Hydroxide to raise the pH. This will not affect Alohas' system.

December 18, 2007
Mr. Bruce Kennedy, P.E
Aloha Utilities – Pasco County Interconnect
Pasco County Reference No. PCUO8-007.P.1

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12. **As mentioned in your cover letter with the submittal, package submitted including report and drawings is conceptual at 60% complete; therefore, it is not appropriate for us to sign the permit application until detailed design is provided.**

Response: At our meeting in your office, you apparently thought it was appropriate, in that you stated that if we revised the drawings to show the meter installation inside the project site, and include the Flow Control Valve in the meter assembly in accordance with your detail, you would sign the permit application.

We also stated that you would receive 90% and 100% drawing for review prior to bidding the project, and that any necessary changes to suit Pasco County Utilities would be incorporated into the design documents. Drawings at 100% are not necessary for Permitting purposes.

13. **If Aloha elects to proceed with this connection to County water system as presently proposed, be assured that there will be times of the day when the County's system may not be able to deliver water to Aloha due to pressure differences in our systems. As previously discussed, the County still recommends that Aloha construct a storage and re-pump facility to ensure that this connection can deliver an adequate quantity of water to Aloha and Aloha can pump this water into its system at an adequate pressure for its customers during peak hour demand.**

Response: Aloha understands this and asks no more than that Pasco county honor the terms of service set forth in their service agreement with Aloha Utilities. Aloha intends to construct storage and pumping facilities to serve their customers as the second phase of their work under the terms of the service agreement.

14. **Before the County can execute the FDEP Permit Application, Aloha will need to address each of the items listed above. In addition, as provided for in our service agreement Aloha will need to compensate the County for the engineering services the County's consultant has expended in modeling the proposed connection and basis of design. We will provide you with a summary these services and the cost thereof; under separate cover.**

December 18, 2007
Mr. Bruce Kennedy, P.E.
Aloha Utilities – Pasco County Interconnect
Pasco County Reference No. PCUO8-007.P.1

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Response: Aloha will address each of the items set forth above as stated. We look forward to receiving a detailed invoice for the services expended by the County's consultant during their attempt to model the proposed connection.

If you require any additional information, or have any questions, please telephone.

Sincerely,
CIVIL ENGINEERING ASSOCIATES, INC.



Dale D. Ernsberger, P.E.
de/de

cc: Stephen Watford, President Aloha Utilities, Inc.
M. Deterding, Rose, Sundstrom et al
David Porter, P.E.

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MARTIN S. FRIEDMAN, P.A.
BRIAN J. STREET

CHRISTIAN W. MARCELLI, OF COUNSEL
(LICENSED IN NEW YORK ONLY)

January 22, 2008

VIA FAX & U.S. MAIL

Mr. Bruce Kennedy, P.E., Assistant County Administrator
West Pasco Government Complex
Public Works/Utilities Bldg. Suite 213
7530 Little Road
New Port Richey, FL 34654

Reference: Aloha Utilities - Pasco County Interconnect
Booster Pumping Station
Pasco County Reference No. PCU08-007.P.1

Subject: Response to Pasco County Letter of December 6, 2007

Dear Bruce:

On behalf of Aloha Utilities, we write this letter mindful of the daily demands on yourself and your staff. However, and as you are well aware, Aloha is both desirous of moving forward with this interconnect as expeditiously as possible and is under significant pressure from regulatory sources to complete this project on the earliest date possible. Accordingly, we respectfully request that, to the extent at all possible, you direct your staff to prioritize this matter, which has already taken much more time than Aloha reasonably anticipated based on its past dealings with the County for similar DEP permit applications.

Bruce Kennedy
January 22, 2008
Page 2

On December 18, 2007, Aloha's engineers, Civil Engineering Associates, Inc., wrote you a letter responding to your letter of December 6, 2007. On January 15, 2008, Aloha's engineers sent you a follow up letter inquiring as to why no reply had been received to Aloha's earlier letter inquiring whether Aloha's December 18 letter had addressed all of the County's concerns. I have attached a copy of each correspondence for your ready reference.

Aloha's only interest in this matter is to move the needed approval from the County forward as quickly as possible. We appreciate your cooperation in that regard and your understanding that time is of the essence with regard to this matter even more so than it typically would be, given Aloha's unique circumstances of which you are well aware.

Thank you in advance for your attention to this matter. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



JOHN L. WHARTON
For the Firm

JLW/bsr

cc: Stephen Watford
Dale D. Ernsberger, P.E.
David Porter, P.E.
Joe Richards

aloha/kennedy re pasco interconnect Jan 22.doc

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MARTIN S. FRIEDMAN, P.A.
BRIAN J. STREET

CHRISTIAN W. MARCELLI, OF COUNSEL
(LICENSED IN NEW YORK ONLY)

February 29, 2008

Marshall Willis, CPA
Division of Economic Regulation
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Aloha Utilities, Inc.

Dear Marshall:

In response to your email of Friday, February 22, 2008, I am attaching hereto a timeline developed by the Utility, which is the most current estimate of the time to complete the first phase of the interconnection with Pasco County. As you know, neither Order No. PSC-06-0169-S-WU which addresses the Stipulation on Procedure related to this interconnection nor the Staff Recommendation that was recently approved (and is supposed to be the subject of an Order next week), have any specific deadlines for the various aspects of the interconnection..

The attached timeline is our best estimate of the time required for the various stages underlying the first phase of the interconnection with a listing of the persons responsible for the completion of each step of the process. As you can see, these various aspects of the timeline are intertwined and the remaining tasks are dependent upon obtaining permit approval from the County and then from DEP.

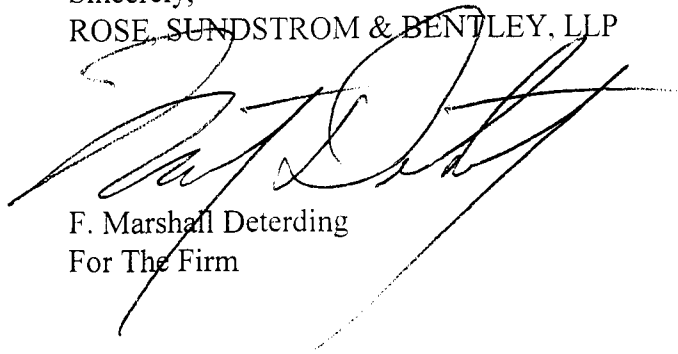
As we have previously informed the staff, the permit application, in final form, was sent to the County for approval in October of 2007. The Utility expected the County to immediately sign off on that permit application within days of such submission so that it could then be submitted to DEP. However, to date we still have yet to receive the final permit approval from the County, which is a condition precedent to submission of the permit to DEP. As such, the overall completion of the

Marshall Willis, CPA
February 29, 2008
Page 2

project has slipped as a result of these delays by the County. We anticipate that within the next week we should have all of these issues resolved and that the County should sign off on the permit application (if the recent informal assurances from the County's engineer to Aloha are accurate).

If you have any questions in this regard, please let me know.

Sincerely,
ROSE, SUNDSTROM & BENTLEY, LLP

A handwritten signature in black ink, appearing to read 'F. Marshall Deterding', is written over the typed name and firm name.

F. Marshall Deterding
For The Firm

cc: Tim Devlin
Michael Cooke
Jean Hartman

ALOHA UTILITIES, INC.
Timeline for Pasco County Interconnection

The following is the most recent estimated timeline for completion of the first phase of the Aloha/Pasco County bulk water interconnection. It is based upon the information previously provided to the Commission staff in the form of a timeline submitted to the staff in July of 2007 and the basic times required are unchanged.

	<u>Estimated Time to Complete</u>	<u>Actual Completion</u>	<u>Persons/Entities Responsible for Completion</u>
1. <u>Design Station</u>	9 Weeks	October 2007	Porter, Aloha Staff
2. <u>Locate and Purchase or Lease Real Estate</u>	9 Weeks	Pending	Porter, Aloha Staff, Pasco County Mosquito Control Board
3. <u>Pasco/FDEP Permit Review & Approval</u>	4 Weeks	Awaiting County, and thereafter DEP Approval	Porter, Pasco County, FDEP
<u>Booster Station Bid/Award</u>	6 Weeks	Awaiting Completion of Item 3 Above	Porter, Aloha Staff
5. <u>Obtain Pasco DRD/Building Permits</u>	4 Weeks	Awaiting Completion of Items 3 and 4 Above	Porter, Aloha Staff, Pasco County
6. <u>Construct/Start Up Booster Station</u>	11 Weeks	Awaiting Completion of Items 3, 4, and 5	General Contractor, Aloha Staff, Porter and Pasco County