

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Objection to notice by ) DOCKET NO. 891082-WS  
 North Naples Utilities, Inc. of )  
 intent to apply for amendment of )  
 Certificates Nos. 462-W and 398-S )  
 in Collier County. )

In re: Objection to notice by ) DOCKET NO. 891108-WS  
 North Naples Utilities, Inc. of )  
 intent to amend Certificates Nos. )  
 462-W and 398-S in Collier County. )

In re: Objection to notice by ) DOCKET NO. 891192-WS  
 North Naples Utilities, Inc. of )  
 intent to apply for amendment of )  
 Certificate Nos. 462-W and 398-S )  
 in Collier County. )

In re: Objection to notice by ) DOCKET NO. 891193-WS  
 North Naples Utilities, Inc. of ) ORDER NO. 23162  
 intent to apply for amendment of ) ISSUED: 7-9-90  
 Certificates Nos. 462-W and 398-S )  
 in Collier County. (1280 acre parcel) )

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER

ORDER APPROVING SETTLEMENT STIPULATION

BY THE COMMISSION:

North Naples Utilities, Inc. (North Naples) is a class C utility providing water and wastewater service in Collier County. On July 31, August 2, September 13, and September 19, 1989, North Naples filed notices with the Commission pursuant

DOCUMENT NUMBER-DATE

05992 JUL -9 1990

FPSC-RECORDS/REPORTING

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to Section 367.061, Florida Statutes, stating its intent to apply for four separate amendments of its water and sewer certificates. On August 24, September 5, and October 13, 1989, the Collier County Water-Sewer District (Collier County) filed timely objections to North Naples' notices.

North Naples' original water and sewer certificates were issued prior to the time that the certificated area was included in the Collier County Water-Sewer District. At that time the area was not subject to any master plan for either water or sewer service.

At the time North Naples filed the separate notices of its intent to apply for amendments to its water and wastewater certificates, the area into which it sought to expand was included in the Collier County Water-Sewer District and was subject to the county's land development regulations. The county's regulations require developments to employ interim treatment until such time as the regional facilities of the Water-Sewer District are available. When the District is able to serve the subject lands, developers are required to disconnect the interim treatment facilities. The county's objections to North Naples' notices of intent requested that the utility's expansion be subject to these land development regulations.

On May 21, 1990, the parties filed a Settlement Stipulation with this Commission. The stipulation is found in Schedule No. 1 of this Order. It provides that the parties have resolved their differences and, therefore, an administrative hearing is not necessary. Because the stipulation incorporates the requirements of the county's land development regulations, no dispute now exists between the parties. Thus, we approve the Settlement Stipulation as a reasonable resolution of the controversy at issue in these dockets.

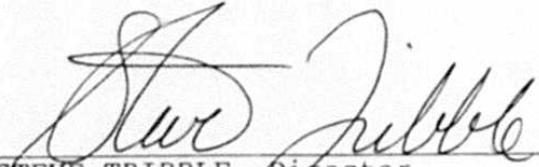
It is, therefore,

ORDERED that the Settlement Stipulation between North Naples Utilities, Inc. and Collier County is hereby approved. It is further

ORDERED that these dockets are hereby closed.

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By ORDER of the Florida Public Service Commission  
this 9th day of July, 1990.

  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

ASD

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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FLORIDA PUBLIC SERVICE COMMISSION  
**RECORDED**  
MAY 22 1990

SCHEDULE NO. 1

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of North	)	
Naples Utilities, Inc., for	)	Docket Nos. 89-1082-WS
Amendment of Certificates	)	89-1108-WS
398-S and 462-W in Collier County)	)	89-1192-WS
	)	and 89-1193-WS
	)	
_____	)	Filed: May _____, 1990

SETTLEMENT STIPULATION

North Naples Utilities, Inc., (Utility) and the Collier County Water-Sewer District (County), by and through their undersigned counsel, enter into this settlement stipulation and acknowledge the following:

1. That the Utility has applied to the Florida Public Service Commission to amend its sewer and water certificates, and that the County timely filed objections to those applications with the Florida Public Service Commission (copies attached hereto as composite Exhibit A and incorporated herein); the above-referenced Dockets were opened by the Florida Public Service Commission.

2. Utility's application to amend its sewer and water certificates seeks service area expansions which are wholly within the boundaries of the Collier County Water-Sewer District.

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3. The County and Utility have resolved their differences without need for administrative hearing. Collier County land development regulations require development which necessitates water and/or sewer service within the boundaries of the Collier County Water-Sewer District to provide or employ interim treatment until such time as the regional facilities of the Collier County Water-Sewer District are available. Further, Collier County land development regulations require developers to disconnect from such interim treatment facilities at such time as the Collier County Water-Sewer District is able to serve the subject lands through its treatment facilities. To this end, Utility has agreed to enter into the applicable facilities agreements with the County (copy of form attached hereto as Exhibit B and incorporated herein) for the new service areas applied for in the above-referenced dockets which is in conformance with applicable Collier County land development regulations concerning interim treatment provided to developers by third parties.

4. The acknowledgements contained herein and Utility's willingness to, in good faith, execute facilities agreements (copy of form attached hereto as Exhibit B) have resolved the objections to the amendment of the above-referenced certificates, and the County hereby withdraws its objection in this docket.

5. Each party shall bear its own costs and attorney's fees related to this proceeding.

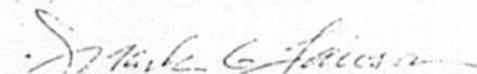
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Executed on the later date indicated below.

Respectfully submitted,



NORTH NAPLES UTILITIES, INC.  
DATE: 5-11-90  
By: Robert S. Hardy, President  
North Naples Utilities, Inc.  
12823 Valewood Drive  
Naples, Florida 33999  
(813) 597-9061



COLLIER COUNTY WATER-SEWER DISTRICT  
DATE: 5-11-90  
By: Mark G. Lawson  
Assistant County Attorney  
3301 East Tamiami Trail  
Building "F"  
Naples, Florida 33942  
(813) 774-8400

Attorney for Collier County  
Water-Sewer District

cc: R. Bruce Anderson  
Young, van Assenderp, Varnadoe & Benton, P.A.  
801 Laurel Oak Drive, Suite 300  
Post Office Box 7907  
Naples, Florida 33941  
(813) 597-2814

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*Mark Lawson*



# COLLIER COUNTY GOVERNMENT

UTILITIES DIVISION  
WATER AND WASTEWATER SERVICES

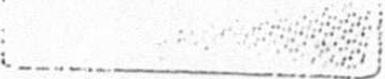
COUNTY ATTORNEY

2800 NORTH HORSESHOE DRIVE  
NAPLES, FL 33942  
(813) 643-8480

A CERTIFIED BLUE CHIP COMMUNITY

August 23, 1989

AUG 28 1989



via Fax

Florida Public Service Commission  
Attention: Director of Divisions of Records  
and Reporting  
101 East Gaines Street  
Tallahassee, FL 32399-0870

Re: Notice Received By Collier County Utilities Division  
On August 3, 1989 Which Indicates North Naples Utilities  
Intention To Expand Its Water And Sewer Service Area  
(See Copy Attached)

Dear Sir or Madam:

Attached please find a copy of a notice from North Naples Utilities advising of its intention to seek an expansion of its water and sewer service area to include approximately 1,000 acres East of I-75 and North of Immokalee Road in Collier County, Florida. The Collier County Water-Sewer District by the undersigned Utilities Administrator notifies you of its qualified objection to the above-referenced expansion of water and/or sewer service to the lands described in the above-referenced and attached notice.

Prior to the issuance or granting of any expansion to the already existing water and sewer service certificates for North Naples Utilities to serve the lands described in the above-mentioned notice, the Collier County Water-Sewer District requests an appropriate administrative hearing. To this end, and pursuant to the Florida Administrative Code, the Collier County Water-Sewer District, on behalf of itself and its ratepayers both present and future, advises that its substantial interest will be affected by the Public Service Commission's determination to grant the above-referenced expansion. Should an administrative hearing be necessary, the Collier County Water-Sewer District reserves the right to file an amended petition.

The initial water and sewer service certificates for the North Naples Utilities were granted at a time when the subject area was not included in the Collier County Water-Sewer District nor was it governed by the 201 Wastewater Plan as updated in 1986 or any master plan for either water or sewer service to said area. At this time

*EXHIBIT A*

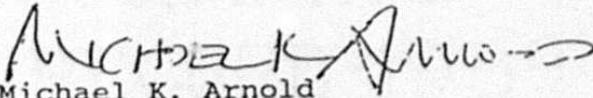
August 23, 1989  
Page Two

the subject area is governed by the 201 Wastewater Plan as updated in 1986 and is the subject of an adopted water master plan and a recently completed sewer master plan. The sewer master plan is expected to be formally adopted by the Board of County Commissioners prior to the end of October 1989.

Additionally, the lands listed in the above-referenced notice are undeveloped and presently zoned for agricultural use. The landowners have applied for rezoning for a portion of the expansion area but have requested Collier County to hold their rezoning petition in abeyance at this time. Any rezoning done on any of the parcels in the area noted in the above-mentioned notice will require as a part of the planned unit development process an agreement that utility facilities other than treatment facilities be dedicated to Collier County and any utility treatment facilities not provided by the Collier County Water-Sewer District shall be interim and shall be dismantled upon service availability through the Collier County Water-Sewer District's regional water and sewer systems. Such requirements comport with and carry out the objectives of the Growth Management Act and Collier County's recently adopted Comprehensive Plan.

Wherefore, the Collier County Water-Sewer District requests that the Public Service Commission either deny the above-referenced application for expansion, or preferably in the alternative, require that any service expansion into the area described in the above-referenced notice be subject to Collier County land development regulations which require water and/or sewer service within the boundaries of the Collier County Water-Sewer District to be interim and such treatment facilities or connections to be disconnected and dismantled at such time as the Collier County Water-Sewer District is able to serve the subject lands through its regional treatment facilities.

Sincerely,

  
Michael K. Arnold  
Utilities Administrator

MGL/MA/dp

cc: Shannon Howell, Vice President  
North Naples Utilities

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Form 1.1 - Rev. 5/2/90-  
 (3-Party Facilities Agreement)  
 Utilities Acceptance -Doc #320

[\*identify type of treatment facility by inserting  
 either water or sewer in title of this instrument]

\* FACILITIES AGREEMENT

THIS AGREEMENT is made and entered into this [day] day of [month], 19[year],  
 by and between

[name of Developer - see Instruction No. 2]

(hereinafter referred to as "Developer"),

[name of interim utility service - See Instruction No. 2]

(hereinafter referred to as "Utility") and THE BOARD OF COUNTY COMMISSIONERS OF  
 COLLIER COUNTY, FLORIDA, AS THE GOVERNING BODY OF COLLIER COUNTY AND AS  
 EX-OFFICIO THE GOVERNING BOARD OF THE COLLIER COUNTY WATER-SEWER DISTRICT  
 (hereinafter referred to as "County"). Developer and Utility are used as singular  
 or plural, as the context requires.

RECITALS:

WHEREAS, for the purposes of this Agreement the term "Developer" shall  
 include the Developer, the Developer's heirs successors, and assigns, including  
 but not limited to any wholly owned or controlled subsidiary entity who leases  
 back any utility facilities from the County; and

WHEREAS, for the purposes of this Agreement the term "Utility" shall include  
 the Utility, the Utility's heirs, successors and assigns; and

WHEREAS, the Developer is the Owner of the [insert name of project shown on  
 below referenced construction plans] development, (hereinafter "Project") and has  
 submitted construction plans to the County for review and approval which employ  
 interim [identify type of treatment by inserting water or sewer] treatment  
 (hereinafter "interim treatment" to the Project; and

WHEREAS, the Developer acknowledges and agrees that the Developer is  
 required to provide interim utility facilities which service the Project until  
 the utility facilities within the Project can be connected to the off-site  
 utility facilities operated by the County and the County facilities have the  
 available capacity to service the Project; and

WHEREAS, Utility represents that it is authorized, or will be authorized  
 prior to connection, by all appropriate regulatory agencies to provide interim  
 treatment to the Project as contemplated herein.

WHEREAS, Collier County land development regulations require, Developer  
 covenants and agrees, and Utility acknowledges, that the Developer shall connect  
 any interim utility system serving that Project to the off-site utility system  
 operated by the County when the County's system has been extended to within two  
 hundred (200) feet of the Project and the available off-site utility system has  
 available capacity to service the entire Project; and

WHEREAS, Developer and Utility have entered into an agreement under which  
 Utility has agreed to provide interim treatment until the utility facilities  
 within the Project are connected to the off-site utility facilities operated by  
 the County and the County facilities have available capacity to service the  
 Project.

AGENDA ITEM  
 No. 4(D)(3)

E. W. H. R.

MAY 11 1990

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WHEREAS, the extension of the off-site utility system operated by the County to within two hundred (200) feet of the boundary of the Project shall be not required of the County as performance under this Agreement; and

WHEREAS, all parties to this Agreement acknowledge and agree that the decision as to whether or not any off-site utility system operated by the County has the capacity to service the Project shall be made solely by the County; and

WHEREAS, at such time as connection of the Project to the County's off-site utility system appears imminent, County shall supply sufficient notice to Utility and Utility shall thereafter take the requisite action, if any, required by the Public Service Commission to effectuate connection of the Project to the County's off-site system; and

WHEREAS, all parties to this Agreement acknowledge and covenant to assist and cooperate with each other and expeditiously advance the intention and terms of this Agreement relative to actions or prior approvals, if any, required by the Public Service Commission in order to effectuate connection of the Project to the County's off-site system, and

WHEREAS, the Developer acknowledges its obligation to dedicate all appropriate collection, distribution and transmission facilities and appropriate easements to the County prior to placing said facilities into service; and

WHEREAS, if required by the County the Developer, or other successor entity satisfactory to the County, will maintain and operate the associated on-site collection, distribution and transmission plant pursuant to a lease agreement with the County as set forth hereinbelow; and

WHEREAS, the Developer has previously accepted the terms and conditions set forth in this Agreement as part of the County's review and approval of the Developer's land use petitions.

W I T N E S S E T H :

NOW, THEREFORE, in consideration of the covenants hereinafter contained the parties agree as follows:

1. RECITALS INCORPORATED. The above Recitals are true and correct and shall be incorporated herein.
2. INTERIM FACILITY. The appropriate collection, distribution and transmission facilities are to be constructed as part of the proposed Project and shall be used as an interim facility; all utility facilities shall be constructed to State and Federal standards and are to be owned, operated and maintained by the Developer or other successor entity satisfactory to the County until such time as the County's off-site utility facilities are available to service the project. The interim facilities shall supply services only to the Project or, subject to the County's approval, other lands owned by the Developer. The interim facilities may not provide service outside the Project without the written consent of the County.
3. DEVELOPER TO DISMANTLE. Upon connection to the County's off-site utility facilities the Developer shall abandon, dismantle and remove from the site those portions of the interim facilities not required for connection to or service by the County's off-site system. All work related with this activity shall be performed at no cost to the County whatsoever.
4. CONNECTION TO COUNTY'S OFF-SITE SYSTEM AT NO COST TO COUNTY. Connection to the County's off-site utility facilities will be made by the Developer at no cost to the County within ninety (90) days after such facilities become available. The cost of connection shall include, whenever the County requires, but not be limited to, all engineering design and preparation of construction documents, permitting, modification or refitting of existing pumping facilities, construction of new pumping facilities, interconnection with County off-site utility facilities, any transmission, distribution or collection lines necessary

AGENCY  
 No. 14(1)13  
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