

ORIGINAL
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TESTIMONY OF PETE BURGHARDT
DEPARTMENT OF ENVIRONMENTAL REGULATION

FILED ON BEHALF OF
THE STAFF OF THE FLORIDA PUBLIC SERVICE COMMISSION

FILED: OCTOBER 12, 1992

SYSTEMS: PALM TERRACE AND ZEPHYR SHORES WASTEWATER SYSTEMS

COUNTY: PASCO

DOCKET NO. 920199-WS - APPLICATION FOR A RATE INCREASE BY
SOUTHERN STATES UTILITIES, INC.

DOCUMENT NUMBER-DATE
12020 OCT 13 1992
FPSC-RECORDS/REPORTING

1 DIRECT TESTIMONY OF PETE BURGHARDT

2 Q. Please state your name and business address.

3 A. My name is Pete Burghardt and my business address is 3804 Coconut Palm
4 Drive, Tampa, Florida 33619.

5 Q. Please state a brief description of your educational background and
6 experience.

7 A. I have a B.S. degree (1980) in Biology from the University of South
8 Florida and ten years experience with the Department of Environmental
9 Regulation.

10 Q. By whom are you presently employed?

11 A. I am employed by the State of Florida, Department of Environmental
12 Regulation (DER).

13 Q. How long have you been employed with the Department of Environmental
14 Regulation and in what capacity?

15 A. I have been employed since October 31, 1990 as an Environmental
16 Specialist in the Domestic Wastewater Section.

17 Q. What are your general responsibilities at the Department of
18 Environmental Regulation?

19 A. My duties are to assure that all wastewater treatment plants in the
20 Southwest district are in compliance with pertinent state regulations.

21 Q. Are you familiar with the Palm Terrace and Zephyr Shores wastewater
22 systems in Pasco County?

23 A. Yes.

24 Q. Does the utility have current operating or construction permits from the
25 Department of Environmental Regulation?

1 A. No. The Zephyr Shores plant has no permit. Palm Terrace has a current
2 operating permit, D051-150578, issued September 6, 1988, which expires on
3 August 18, 1993.

4 Q. Is Palm Terrace in compliance with its permit?

5 A. This plant has experienced problems with turbidity and fecal coliforms
6 as shown by its groundwater monitoring.

7 Q. Please explain why Zephyr Shores does not have a current operating or
8 construction permit.

9 A. The Department issued a notice of permit denial on August 25, 1992, as
10 a result of review of the utility's application for permit number
11 D051-201779.

12 Q. What problem does this Zephyr Shores plant have?

13 A. The plant has inadequate effluent disposal capability. To correct this
14 problem, the plant will need to build additional disposal, or, divert its flow
15 to the county's wastewater system.

16 Q. Are the wastewater collection, treatment and disposal facilities
17 adequate to serve present customers based on permitted capacity?

18 A. No, not at Zephyr Shores, due to the effluent disposal problem discussed
19 above. Palm Terrace's facilities are adequate.

20 Q. Are the treatment and disposal facilities located in accordance with
21 Section 17-6.070(2), Florida Administrative Code?

22 A. Yes.

23 Q. Has DER required the utility to take any action so as to minimize
24 possible adverse effects resulting from odors, noise, aerosol drift or
25 lighting?

1 A. Not for the Zephyr Shores plant. At Palm Terrace, aerosol drift from
2 the restricted access sprayfield has required some attention by the DER.

3 Q. Do the pump stations and lift stations meet DER requirements with
4 respect to location, reliability and safety?

5 A. The DER's files contain no information addressing this point.

6 Q. Does the utility have certified operators as required by Chapter 17-602,
7 Florida Administrative Code?

8 A. Yes, the utility's plant staffing is sufficient.

9 Q. Is the overall maintenance of the treatment, collection, and disposal
10 facilities satisfactory?

11 A. No. The Zephyr Shores plant's disposal system is inadequate as already
12 discussed. The utility's failure to resolve this problem has resulted in the
13 Department's denial of the permit application and consideration of enforcement
14 action. Palm Terrace's facilities are satisfactorily maintained.

15 Q. Do the facilities meet effluent disposal requirements of Sections 17-
16 6.055 and 17-6.080, Florida Administrative Code?

17 A. No. The disposal problem at Zephyr Shores was discussed earlier in this
18 testimony. The Palm Terrace plant discharges to two percolation/evaporation
19 ponds and also a 2.2 acre restricted area sprayfield and is meeting effluent
20 disposal requirements.

21 Q. Are the collection, treatment and disposal facilities in compliance with
22 all the other provisions of Title 17, Florida Administrative Code, not
23 previously mentioned?

24 A. As far as I know, yes.

25 Q. Have any of these system been the subject of any Department of

1 | Environmental Regulation enforcement action within the past two years?

2 | A. A consent order involving Zephyr Shores, comprised of six pages is being
3 | provided as Exhibit PB-1.

4 | Q. Do you have anything further to add?

5 | A. Yes. On November 27, 1990, an inspection of Palm Terrace showed the
6 | facility was not reporting abnormal events as required. Specifically an
7 | "office wall calendar," instead of the official operator's log, noted 16 days
8 | in November, 1990, of solids loss. This was neither reported to the
9 | Department nor recorded in the operator's log. A reinspection on May 2, 1991
10 | indicated that at that time the problems were resolved.

11 | Q. Does this conclude your testimony?

12 | A. Yes, it does.

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EXHIBIT PB-1

TITLE: CONSENT ORDER

WITNESS: PETE BURGHARDT

DEPARTMENT OF ENVIRONMENTAL REGULATION

FILED ON BEHALF OF

THE STAFF OF THE FLORIDA PUBLIC SERVICE COMMISSION

FILED: OCTOBER 12, 1992

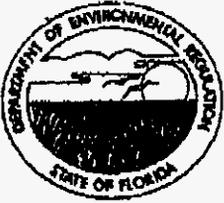
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COUNTY: PASCO

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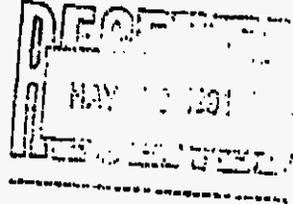
SOUTHERN STATES UTILITIES, INC.



Florida Department of Environmental Regulation

Southwest District • 4520 Oak Fair Boulevard • Tampa, Florida 33610-7347
 Lawton Chiles, Governor • 813-623-5541 • Carol M. Browner, Secretary

May 7, 1991



Southern States Utilities, Inc.
 1000 Color Place
 Apopka, FL 32703

Attention: Mr. Charles Sweat

Re: Proposed Final Agency Action (Consent Order) in Case
 of Southern States Utilities, Inc. (Zephyrshores S.T.P.),
 OGC File No. 91-0996.

Dear Mr. Sweat:

The purpose of this letter is to complete the resolution of the violation(s) previously identified by the Department of Environmental Regulation ("DER") in the Warning Notice WN91-0016DW51SWD dated April 8, 1991, which is attached. The corrective actions required to bring your facility into compliance have been performed. However, you must pay to the Department the amount of \$20,000.00 to complete settlement of the violations described in the attached Warning Notice, along with \$250.00 to reimburse the DER's costs, for a total of \$20,250.00. This payment must be made to "The Department of Environmental Regulation" by certified check or money order and shall include thereon the OGC number assigned above and the notation "Pollution Recovery Fund". The payment shall be sent to the Southwest District Office, 4520 Oak Fair Blvd., Tampa, Florida within 30 days of your signing this letter.

Your signing of this letter constitutes your agreement to the terms of the letter. After this letter has been countersigned by the DER and filed with the Clerk of the DER, the letter shall constitute a consent order, which is final agency action of the DER, the terms and conditions of which may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this letter once signed by you shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

Southern States Utilities, Inc.
Re: Zephyrshores S.T.P.
OGC File No. 91-0996
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The DER by countersigning this letter, waives its right to seek judicial imposition of damages, or civil penalties for the violations described above. By signing this letter, you waive your rights as described on the back of this document in the Notice of Rights. If you do not sign and return this letter to the Department at the Southwest District address given above by May 17, 1991, it will be assumed that you are not interested in settling this matter according to the terms described herein, and this matter will be referred to the Department's Office of General Counsel with a recommendation that formal enforcement action be taken against you.

Sincerely,

Richard D. Garrity, Ph.D.
Richard D. Garrity, Ph.D.
Deputy Assistant Secretary
Southwest District

For Southern States Utilities

For the DER:

By: *Charles Hunt*
Vice President Operations
May 16, 1991

R. D. Garrity
Deputy Assistant Secretary
State of Florida Department
of Environmental Regulation

ENTERED this 23 day of May, 1991 in
Tampa, Florida.

Attachments

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to §120.52
Florida Statutes, with the designated Depart-
ment of State, receipt of which is hereby ac-
knowledged.

Laura L. Newman 5/28/91
Clerk Date

NOTICE OF RIGHTS

Persons whose substantial interests are affected by the proposed agency action described in this document have a right, pursuant to Section 120.57, F.S., to petition for an administrative determination (hearing) on the proposed action. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the (persons named) above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, F.S.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action;

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject agency (proposed) action have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed.

* * * * *

A party who is adversely affected by this Consent Order is entitled to Judicial Review pursuant to Section 120.68, F.S. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Agency Clerk of the Division of Administrative Hearings and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The Notice of Appeal must be filed within 30 days of rendition of the Order to be reviewed.



Florida Department of Environmental Regulation

Southwest District
Lawton Chiles, Governor

4520 Oak Fair Boulevard
813-423-5561

Tampa, Florida 33610-7347
Carmi M. Browner, Secretary

April 8, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Pasco County

Mr. Charles Sweat
Southern States Utilities, Inc.
1000 Color Place
Apopka, FL 32703

Dewey Chancey
Certification No. C-4409

Robert D. Barrett
Certification No. C-3128

WARNING NOTICE
No. WN91-0016DW515WD

Re: Zephyrshores S.T.P.
Permit No. D051-128892

Dear Mr. Sweat:

Pursuant to Chapter 403, Florida Statutes, and the rules and regulations promulgated therein which authorizes and empowers the Department of Environmental Regulation to control, abate and prohibit pollution of air and water in the state of Florida, you are hereby notified of specific violations of these rules and regulations as follows:

1. On April 1, 1991 Department personnel conducted an inspection of Zephyrshores Sewage Treatment Plant (STP) and found a bypass pump installed in the Chlorine Contact Chamber which discharges to an unpermitted pond system. This is a violation of your permit and, therefore, a violation of Section 403.161(1)(b) Florida Statutes (F.S.).
2. A bypass was valved into the clarifier/skimmer return to allow unchlorinated effluent, solids and debris to flow to the unpermitted pond referenced in paragraph #1 above. This is a violation of Section 403.161(1)(a) F.S.
3. A portable gasoline powered pump was setup to pump from this unpermitted onsite pond. The discharge from this pump enters a stormwater retention pond in the neighboring Mobile Home Park. This is a violation of Section 403.161(1)(a) F.S.

Charles Sweat
Dewey Chancy, Operator
Robert D. Barratt, Operator
Re: Zephyrshores STP -
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4. The Department was not notified of the planned bypassing of components critical to the functioning of the treatment plant as designed in violation of Rule 17-600.740(2)(f) Florida Administrative Code (F.A.C.).
5. The existing permitted percolation/evaporation ponds are discharging effluent off site, causing severe ponding on the neighboring property to the south. The west pond is seeping through the west berm. This is a violation of Section 403.161(1)(a) F.S.
6. The Department was not notified, by wire or telephone, within 24 hours of each unpermitted discharge, described in paragraph #5 above, in violation of Rules 17-602.360(1)(c) and 17-600.750(1) F.A.C.
7. The weekend operator (R. D. Barrett C-3128) failed to make the required entries into the operator's log in violation of Rule 17-602.360(1)(e) F.A.C.
8. The last entry in the onsite log by the Certified Operator (D. Chancey C-4409) was March 19, 1991 in violation of Rule 17-602.360(1)(e) F.A.C.
9. A trainee, (Ed Epperly) who is not an operator certified by the Department, is being utilized to meet the operator onsite time requirement. This is a violation of rule 17-602.370(2) F.A.C. and Section 403.101(4)F.S.
10. The trainee has been signing the name of the operator (D. Chancey) in the maintenance logs, at direction of the operator and in the absence of said operator. This constitutes falsification of records and is in violation of Section 403.161(1)(c) F.S.
11. The onsite operator's log does not include operator in and out times, operator signature, and does not detail specific operation, maintenance, or major repairs performed in violation of Rule 17-602.360(1)(e).
12. Monthly Operating Reports indicate effluent quality violations for Nitrates for the months of July and September 1990 and January and February 1991 in violation of your operating permit and, therefore, in violation of Section 403.161(1)(b) F.S.

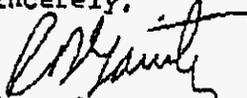
Charles Sweat
Dewey Chancy, Operator
Robert D. Barrett, Operator
Re: Zephyrshores STP
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13. There is no "Reduced Pressure Zone" (RPZ) backflow preventor on the potable waterline supplying the wastewater treatment plant. This is a violation of Rule 17-550.360(1) F.A.C.
14. The blower motors are not operating as designed due to a faulty or missing check valve. The access control fence around the permitted percolation/evaporation ponds is in poor repair. This is in violation of Rule 17-600.740(2)(a) F.A.C.
15. The Chlorine gas cylinder was not properly restrained to prevent tipping, additionally there was no respiratory protection meeting NIOSH Standards available. This is a violation of Rule 17-600.300(4)(b) F.A.C.

You are advised that operation of your system in violation of state regulations subjects you to judicial imposition of damages and civil penalties, pursuant to Sections 403.141 and 403.161, Florida Statutes. The violations set forth in the Warning Notice may be resolved by the execution of a mutually acceptable Consent Order providing an acceptable time schedule within which the violations will be corrected. This Consent Order will set forth the specific requirements for compliance and the time periods within which compliance must be achieved. The Consent Order will also set forth a settlement payable to the State in compensation for violations of State statutes.

You are requested to contact Mr. Pete Burghardt of the Domestic Waste Section at (813) 623-5561, Extension 311, within five (5) days of receipt of this Notice to set a time and date for an informal conference to be held at this office. The purpose of this meeting will be the resolution and settlement of the above violations. In addition, you are requested to respond, in writing, within ten (10) days from receipt of this Notice detailing your plans to comply with the cited statutes and/or rules.

Sincerely,


Richard D. Garrity, Ph.D.
Deputy Assistant Secretary
Southwest District

RDG/pbb

cc: Office of General Counsel
Pete Burghardt, DER
Glen Thompson, Pasco County Health Unit

EHD