

P.O. Box 5063
Grove City, FL 34224

941-697-0871
captronkeywest@webtv.net

Linda B. Bamfield

Friday, November 14th, 2003

Ms. Blanca Bayo
Commission Clerk and Administrative Services Director
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

RE.: Docket No. 020745-SU; Application of Island Environmental Utility, Inc., for
Original Certificate

Dear Ms. Bayo:

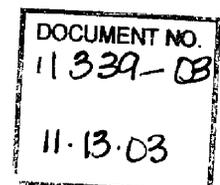
Enclosed please find for filing in the above-referenced docket the original and fifteen (15) copies of the Direct Testimony of Linda B. Bamfield along with a Notice of Filing same.

Yours truly,



Linda Bamfield

Cc: Roseanne Gervasi, Esquire (w/enclosures)
Mr. Daniel Nolan (w/enclosures)
Mr. Ronald Koenig (w/enclosures)
Mr. Martin S. Friedman, Esquire (w/enclosures)



RECEIVED- FPSC

11-12-03

NOV 13 AM 11:49

COMMISSION
CLERK

Ms. Bayo,

Fourteen (14) copies will follow under separate cover and are being mailed this date via Priority Mail-US Postal Service.

Thank you.

Linda Bamfield

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of ISLAND)
ENVIRONMENTAL UTILITY, INC.,)
For original Water Certificate in)
Charlotte County, Florida by)
_____)

Docket No. 020745-SU

NOTICE OF FILING

Intervenor, LINDA B. BAMFIELD, hereby notices the filing in the above-referenced docket the Direct Testimony of Linda B. Bamfield.

Respectfully submitted on this
14th day of November, 2003, by:

Linda B. Bamfield
P.O. Box 5063
Grove City, FL 34224
(941) 697-0871
(941) 276-1140
captronkeywest@webtv.net



LINDA B. BAMFIELD

CERTIFICATE OF SERVICE
DOCKET NO. 020745-SU

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice and Direct Testimony of Linda B. Bamfield has been furnished by U.S. Mail on the 14th day of November, 2003, to:

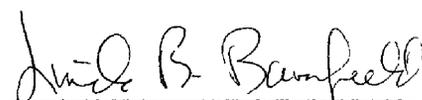
Roseanne Gervasi, Esquire
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

And by U.S. Mail on the 14th day of November to:

Mr. Daniel Nolan
156 Bayview Avenue
POB 23S4
Port McNicoll, Canada
L0K 1R0

Mr. Ronald Koenig
8006 Lago Vista Drive
Tampa, FL 33614

Mr. Martin Friedman, Esquire
600 S. North Lake Blvd.
Suite 160
Altamonte Springs, FL 32701



LINDA B. BAMFIELD
P.O. Box 5063
Grove City, FL 34224
(941) 697-0871
(941) 276-1140
captronkeywest@webtv.net

1 DIRECT TESTIMONY OF
2 LINDA B. BAMFIELD
3 BEFORE THE PUBLIC SERVICE COMMISSION
4 REGARDING THE APPLICATION FOR CERTIFICATE TO PROVIDE
5 WASTEWATER SERVICE IN
6 CHARLOTTE COUNTY, FLORIDA BY
7 ISLAND ENVIRONMENTAL UTILITY, INC.
8 DOCKET # 020745-SU

9 Q: WHAT IS YOUR NAME AND ADDRESS?

10 A: My name is Linda B. Bamfield. I reside at 50 Gasparilla Way, Don Pedro
11 Island. My mailing address is P.O. Box 5063, Grove City, Florida, 34224.

12 Q: WHAT IS YOUR INVOLVEMENT WITH ISLAND ENVIRONMENTAL UTILITY, INC.
13 [IEU]?

14 A: I am a prospective customer of the proposed Utility.

15 Q: BRIEFLY DESCRIBE YOUR EDUCATION AND QUALIFICATIONS.

16 I have been a state certified general contractor in the state of Florida since
17 1982. I was a project manager and supervisor of wastewater disposal systems
18 permitting for Giffels-Webster engineers for over 10 years. My experience
19 includes both on-site septic systems, sewer plants and underground utilities. I
20 am also a private consultant for permit expediting and land planning, and have
21 conducted underground utility inspections and inspections for sewer plant
22 expansions in the City of Key West. I was a state certified Septic Installer for

1 5 years, and I am experienced in all aspects of planning, zoning, construction,
2 inspection, platting, engineering and surveying related to land development,
3 including utilities and sewer and water treatment plants.

4 **Q:** IS THERE A NEED TO PROVIDE SERVICE IN THE PROPOSED AREA?

5 **A:** No. The need for central sewer service in the proposed area has not been
6 demonstrated by the applicant. I have been involved with the design of
7 thousands of on-site wastewater treatment systems, and in my experience
8 there has never been a denial of building permits due to the separation
9 requirement of potable water wells and septic tanks. The applicant has not
10 shown evidence of any denial of building permits due to the separation
11 requirement. The lack of central sewer has not been an impediment to
12 development, as evidenced by the 27 new building permits for Knight Island
13 and Don Pedro Island granted last year (2002) and the 29 new building
14 permits granted the year previous (2001) [Exhibit LBB-1]. Further, the
15 sections as described in the legal description of the proposed territory are in
16 areas that have water utility services. These services are Knight Island
17 Utilities, Bocilla Utilities, Little Gasparilla Water Utility, Inc. Hideaway
18 Homeowners' Association Utility, Pelican Inn Limited Use Utility and
19 Charlotte County Utilities [serving Don Pedro State Park]. If necessary for
20 development, all of the properties included in these sections have potable
21 water available through one of these utilities. Therefore, the separation
22 requirement need not be an issue for development. From a public health and

1 environmental standpoint, the need for central sewer service in the proposed
2 area has also not been demonstrated. The majority of homes within the
3 proposed territory were constructed after 1982, at which time they were
4 required to be designed by engineers, with on-site wastewater management
5 systems approved and inspected by the Charlotte County Health Department.
6 While central sewer is usually considered the preferred method of disposal for
7 developed areas, these bridgeless barrier islands are a unique exception to the
8 rule. Specifically, our bridgeless barrier islands have a very low elevation;
9 they are very narrow and prone to both severe erosion and hurricane damage.
10 In the past, we have had water lines exposed from beach erosion which
11 interrupted water service, and there is a likelihood the same may happen with
12 central sewer lines. A problem with a single septic system is a problem for
13 one homeowner – a problem with a central sewer line impacts an entire
14 community. Furthermore, the proposed sewer line may have to make several
15 subaqueous crossings, including under the IntraCoastal Waterway, increasing
16 the danger of a catastrophic sewer spill. This would be a health problem as
17 well as an environmental issue in an ecologically sensitive area. In the
18 absence of proof of contamination from on-site wastewater treatment systems,
19 which would indicate a need for central sewer, our local civic organization
20 (the “Palm Island Estates Association”) conducted random water tests in the
21 canals in and around the proposed service area. [Exhibit LBB-2] Two
22 members of the organization collected 10 “grab” samples under conditions

1 that would be most inclined to show contamination. They collected during
2 Easter week – a time of maximum capacity for wastewater use. At the lab’s
3 suggestion, they selected a day with two tides so there would be minimum
4 flushing action in the canals. The samples were then taken to Sanders
5 Laboratories, Inc. and analyzed for the presence of fecal coliform. According
6 to Bud Weimer, Environmental Specialist with the Department of Health, if
7 the fecal coliform levels exceed 400 colony-forming units per 100 milliliters
8 of water, the Health Department is required to post a warning for bathing
9 beaches. That level would be the same for recreational salt waters such as the
10 canals. Each of the 10 samples showed results of less than 100 units per 100
11 ml of water – very low numbers – showing levels considered well below
12 acceptable for fecal coliform presence. If there are currently no impediments
13 to development, nor any health or environmental issues, then there is no need
14 for central sewer

15 **Q:** WHEN WILL SERVICE BE REQUIRED?

16 **A:** As no need for the Utility has been established, there is no timeline required to
17 be followed. However, page 4 lines 20-21 of the testimony of John R. Boyer
18 states that he “anticipates that service will begin two (2) years after
19 certification.” In my opinion, the permitting process alone could take two or
20 more years to accomplish, with no assurance that the permits would be
21 approved. As some of the proposed lines may be constructed seaward of the
22 Coastal Construction Control Line, and if there are complications involved

1 with one or more subaqueous crossings of the Intracoastal Waterway, this may
2 not, in fact, be a permit-able project. There is no evidence that IEU has
3 contacted any federal, state or local permitting agencies to determine whether
4 the agencies are predisposed to issue permits for this project. There are other
5 considerations that will be time consuming, for example, the acquisition of
6 easements or right-of-way to run pipes where none currently exist. Permission
7 must be granted to cross state-owned lands, whether they are submerged or
8 uplands. Also, certain properties within the proposed service territory would
9 have to be provided with potable water service before wastewater service can
10 be provided. [see "IS IEU'S APPLICATION INCONSISTENT WITH CHARLOTTE
11 COUNTY'S LOCAL ORDINANCES?" below] This criterion may not be met within
12 the stated time framework. It should also be noted that the intended location
13 for the vacuum plant facility is on property that is not owned by the utility.
14 [Exhibit LBB-3] The negotiation of an appropriate and acceptable lease that
15 will fulfill the requirements of the Florida DEP and/or the Public Service
16 Commission may take additional time.

17 **Q:** DOES IEU HAVE THE TECHNICAL ABILITY TO SERVE THE REQUESTED
18 TERRITORY?

19 **A:** To date, there has been no evidence or documentation provided to substantiate
20 the technical ability of any of the principals. Mr. Boyer has a demonstrated
21 history of operational violations and deficiency reports, repeated delays in
22 correcting them, and claims of ignorance of the statutes defining them. For

1 example, Little Gasparilla Utility, Inc. was re-classified as a Community
2 System effective November 15th, 1996, requiring compliance with an
3 “Auxiliary Power” statute [Exhibit__LBB-4]. An inspection on May 20th,
4 1997, resulted in the reporting of a deficiency with respect to this statute to the
5 Florida Department of Environmental Protection. [Exhibit__LBB-5] A
6 series of notices and correspondences related to this issue are dated through
7 December 19th, 2003, showing that Mr. Boyer did not correct this deficiency
8 in a timely manner. [Exhibits LBB-6 through Exhibit LBB-19]. In a letter
9 dated February 6th, 1998, the Florida DEP engineer cites failure to comply
10 with the “Auxiliary Power” statute, to which Mr. Boyer responds, “I
11 understand it is probably my responsibility to be able to recite every possible
12 Florida Statue as well as rule with ten numbers behind it, but even the
13 possibility of the threatening of enforcement action in this letter really disturbs
14 me.” [Exhibit LBB-12] Had Mr. Boyer had been in compliance in a timely
15 manner, the Florida DEP would not have had felt a need to “pursue
16 enforcement action against LGU for an alleged violation of that rule.”
17 [Exhibit__LBB-9] In addition, an assortment of other non-compliance issues
18 was raised in a series of letters and reports from the Florida DEP to Little
19 Gasparilla Utility, Inc. dating from March 8, 1996 through February 17th,
20 2003. [Exhibit LBB-20] In April 29th of 1996 it was reported by Scott
21 Medlock, Florida Park Patrol Officer that Jack Boyer had admitted that he had
22 installed ½ mile of illegal water pipe on the Don Pedro Island State Recreation

1 area that had been connected into the Park water line. An unauthorized meter
2 and lock were also installed. According to the officer's report, Mr. Boyer
3 refused to remove the illegal connection. Mr. Boyer was indicted with a
4 charge of criminal mischief [\$1000 or more felony] and a second charge of
5 trespass/larceny with relation to a utility [a first degree misdemeanor]. Mr.
6 Boyer entered a plea bargain, reducing his sentence to a fine of \$256.00 and
7 restitution of \$1,200.00. [Exhibit LBB-21] Mr. Garfield Beckstead, the owner
8 of Useppa Island [Exhibit LBB-22] who operates a sewage
9 collection/transmission system [Exhibit LBB-23] has not fared much better
10 than Mr. Boyer as the principal in an operating utility. The letters and reports
11 from the Florida DEP to Useppa Island Club, dating from May 15th, 1984
12 through February 13th, 2003 [Exhibit LBB-24] demonstrate his lack of
13 adherence to the policies, rules and regulations governing the operation of his
14 wastewater treatment plant. The violations were so extreme that Lee County
15 had to enact a moratorium on issuing building permits to prevent additional
16 service connections until the plant came into compliance [Exhibit LBB-25].
17 Of the three principals involved with Island Environmental Utility, Inc., Mr.
18 Dean Beckstead seems to have less significant compliance violations and
19 post-inspection warnings. [Exhibit LBB-26] However, the combined three
20 principals do not generate confidence in the technical ability of IEU to serve
21 the requested territory.

1 **Q:** HAS IEU CONTRACTED FOR SUFFICIENT WASTEWATER PLANT CAPACITY TO
2 SERVE THE REQUESTED TERRITORY?

3 **A:** No. There is no documentation that supports the idea that IEU has contracted
4 sufficient plant capacity. A “letter of intent” from the Englewood Water
5 District was provided by the applicant [Exhibit ___JRB-2], however, this letter
6 does not constitute a contract. The letter serves only as a confirmation of
7 information discussed, and contains neither specifics regarding plant capacity
8 nor any response to a request for plant capacity. As this letter, dated October
9 28th, 2002, is over one year old, the contents may be irrelevant as
10 circumstances may have changed since these initial discussions.

11 **Q:** WHAT ARE THE APPROPRIATE WASTEWATER RATES AND CHARGES AND
12 APPROPRIATE SERVICE CHARGES FOR IEU?

13 **A.:** While the projected cost of \$4,806.00 per connection might be considered
14 appropriate, I believe that this cost assessment is vastly underestimated.
15 Present barge fees to transport materials to Little Gasparilla Island are \$300.00
16 per truck. Present barge fees to transport materials to Knight Island and Don
17 Pedro Island are a minimum of \$100.00 per vehicle over ¾ ton capacity. It
18 does not take into consideration environmental/permit fees, and attorney costs
19 to provide easements for sewer lines where none exist. Also, funds may be
20 required for mitigation for crossing state lands, as well as capital reserves for
21 storm and hurricane damage, which may not have been incorporated into the
22 projected rates and charges.

1 **Q:** DOES IEU HAVE THE FINANCIAL ABILITY TO SERVE THE REQUESTED
2 TERRITORY?

3 **A:** As there is no IEU currently in operation, the owners are relying upon their
4 individual financial stability to support the corporation and its activities.
5 According to docket item #02784, Mr. Martin Friedman, attorney for the
6 applicants, indicates that “the financial ability of Island Environmental Utility,
7 Inc. to provide wastewater service is based upon the financial ability of its
8 shareholders who are Dean Beckstead and Jack Boyer.” At a conference call
9 meeting held on July 16th, 2003 to discuss issues surrounding the application,
10 Mr. Friedman also stated that financial documents would be forthcoming by
11 August 15th, 2003. To date, these documents have not materialized. Further,
12 there has been no documentation of what the funding sources are and how
13 funding is being secured for the project.

14 **Q:** WILL THE CERTIFICATION OF IEU RESULT IN THE CREATION OF A UTILITY
15 WHICH WILL BE IN COMPETITION WITH, OR DUPLICATION OF, ANY OTHER
16 SYSTEM WITHIN GEOGRAPHIC PROXIMITY TO THE PROPOSED SERVICE AREA?

17 **A:** Yes. The proposed service area overlaps with existing utility service provided
18 by Knight Island Utilities, Inc. and Hideaway Homeowners’ Association
19 Utility. Also, Charlotte County Utilities, Inc. [CCU] has expressed a
20 willingness to offer central sewer service to the proposed area. [See “CAN
21 THE PUBLIC BE ADEQUATELY SERVED BY MODIFYING OR EXTENDING A CURRENT
22 WASTEWATER SYSTEM?” below] The County policy, since their inception in

1 the early 1990's, has been to provide new service to unserved territories and to
2 acquire existing private utility companies. [Exhibit LBB-27] This policy
3 makes it feasible that IEU may be acquired by the not-for-profit CCU, at some
4 future date, if IEU is certified for the proposed area. The applicants will have
5 an opportunity to recover the costs of their investment and to earn a
6 reasonable percentage of profit through fees to the ratepayers in the proposed
7 area. Once this private, for-profit utility has been certificated, the owners can
8 exercise their right to sell the business or default on adequate service. At that
9 point, should CCU purchase IEU, the ratepayers will pay again for this
10 acquisition through their taxpayer dollars.

11 **Q:** CAN THE PUBLIC BE ADEQUATELY SERVED BY MODIFYING OR EXTENDING A
12 CURRENT WASTEWATER SYSTEM?

13 **A:** Yes. The proposed area can be served through individual on-site wastewater
14 treatment systems. Much of the new construction in the proposed area is using
15 "ATU" systems, the newest technology for wastewater treatment, which are
16 permitted and approved by the Charlotte County Health Department.

17 However, if the need for a central sewer is definitively proved in the future,
18 then the not-for-profit Charlotte County Utilities should provide service. It is
19 the responsibility of local government to provide for the health, safety and
20 welfare of its residents. According to page 6 line 3 of the testimony of John R.
21 Boyer, "no other utilities are willing and able to provide the service proposed
22 by the Utility." Mr. Boyer provides no documentation to support this

1 statement, including any evidence that he has contacted any other utility to
2 solicit response. In fact, at a public meeting of the Palm/Don Pedro Island
3 Steering Committee Meeting on Saturday, May 10th, 2003 at 9:30 am, Mr.
4 Bernie Milosky of the Charlotte County Utility Department said that CCU
5 may very well be able and willing in the future to provide not-for-profit sewer
6 service to the islands. Due to present financial commitments and
7 reconfiguration of their collection systems, CCU is unable to accommodate
8 the islands right now. However, Mr. Milosky stated that there is potential
9 interest and willingness to pursue the option of serving the proposed area.

10 **Q:** IS IEU'S APPLICATION INCONSISTENT WITH CHARLOTTE COUNTY'S LOCAL
11 ORDINANCES?

12 **A.** Yes, it is. During the conference call of July 16th, 2003, Marty Burton,
13 Assistant County Attorney for Charlotte County, raised the issue of
14 compliance with the local ordinance that states that no one can extend or
15 introduce one utility [wastewater] without the other [potable water]. Both
16 must be offered concurrently. Despite the fact that most of the properties in
17 the proposed service territory fall within the territories of utilities certificated
18 for provision of potable water, many of the properties are not currently
19 serviced by these utilities, particularly on Little Gasparilla Island. IEU will
20 not be able to service those properties until potable water is being provided to
21 those properties, otherwise they will be in violation of the local ordinance.

1 **Q:** IS IEU'S APPLICATION INCONSISTENT WITH CHARLOTTE COUNTY'S
2 COMPREHENSIVE PLANS?

3 **A:** Yes, the application is inconsistent with the present language of the
4 Comprehensive Plan. Policy 9.1.4 of the Infrastructure Element of the
5 Comprehensive Plan states that "Certificated areas will not be extended or
6 expanded for potable water or sanitary sewer service outside of Infill Area
7 boundaries." [Exhibit__LBB-28] The applicants had to request of Charlotte
8 County that changes be made to the Comprehensive Plan in order for their
9 application to be compliant. The text amendment changes were on the agenda
10 for a vote at the July 8th, 2003 meeting of the BCC, but the vote was delayed
11 due to concerns regarding density. [Exhibit__LBB-29] The County also
12 indicated a desire to explore its own ability to provide sewer service. None of
13 these text amendments have been approved by the Board of County
14 Commissioners to date.

15 **Q:** IS IT IN THE PUBLIC INTEREST FOR IEU TO BE GRANTED A WASTEWATER
16 CERTIFICATE FOR THE TERRITORY PROPOSED IN ITS APPLICATION?

17 **A:** No. There is no demonstrable need for service in the proposed territory, as the
18 lack of central sewer is neither an impediment to development nor the source
19 of a health/environmental problem. The technical ability of the applicants is
20 questionable, based on their collective history of troubles with their own
21 individual utilities. The application is clearly inconsistent with both local
22 Charlotte County ordinances and the Charlotte County Comprehensive Plan.

1 And there is no documentation of substantive support in the communities
2 involved for central sewer service to be provided. If provision of wastewater
3 service were needed and desirable on the bridgeless barrier islands, there is a
4 governmental, not-for-profit utility, Charlotte County Utilities, Inc. that could
5 be requested to provide service for the proposed territory. In view of these
6 arguments, I do not believe that it is in the public interest to grant certification
7 to Island Environmental Utility, Inc.

8 DOES THAT CONCLUDE YOUR TESTIMONY?

9 Yes.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
REGARDING THE APPLICATION FOR CERTIFICATE TO PROVIDE
WASTEWATER SERVICE IN
CHARLOTTE COUNTY, FLORIDA BY
ISLAND ENVIRONMENTAL UTILITY, INC.

Docket No. 020745-SU

EXHIBITS TO
DIRECT TESTIMONY OF
LINDA B. BAMFIELD

- | | |
|----------------------|--|
| Exhibit ____ (LBB-1) | Information for Don Pedro-Knight Island |
| Exhibit ____ (LBB-2) | Lab Project Summary from Sanders
Laboratories, Inc. |
| Exhibit ____ (LBB-3) | Charlotte County GIS Map of Property owned
by Palm Island Investment Corporation and
Property Appraiser's Datasheet showing
ownership by Palm Island Investment
Corporation. |
| Exhibit ____ (LBB-4) | November 15 th , 1996: Letter indicating Little
Gasparilla Utility, Inc. is re-classified to a
"Community Water System", effective January
1, 1997. |

EXHIBITS TO
DIRECT TESTIMONY OF
LINDA B. BAMFIELD

- Exhibit ____ (LBB-5) May 30th, 1997: Florida DEP sends letter notifying LGU of “Auxiliary Power” deficiency as a result of inspection on May 20th, 1997.
- Exhibit ____ (LBB-6) July 7th, 1997: DEP logs phone call from Jack Boyer of LGU indicating that all deficiencies from the compliance inspection would be corrected soon.
- Exhibit ____ (LBB-7) January 7th, 1998: Letter from DEP to LGU where LGU is told to be in full compliance with “Auxiliary Power” requirement by January 31st, 1998.
- Exhibit ____ (LBB-8) February 3rd, 1998: Letter from LGU to DEP re. response to letter of January 7th regarding “Auxiliary Power” deficiencies.
- Exhibit ____ (LBB-9) February 6th, 1998: Letter from DEP to LGU re. failure to comply re. “Auxiliary Power”

EXHIBITS TO
DIRECT TESTIMONY OF
LINDA B. BAMFIELD

- Exhibit ____ (LBB-10) February 6th, 1998: Interoffice Memorandum regarding complaint of loss of water due to power outage: “The Aux power at the WTP does not work.”
- Exhibit ____ (LBB-11) February 6th, 1998: Interoffice Memorandum regarding complaint of loss of water due to power outage: “there is no auxiliary power to run the water system.”
- Exhibit ____ (LBB-12) February 20th, 1998: Letter response from LGU to DEP regarding lack of auxiliary power.
- Exhibit ____ (LBB-13) March 10th, 1998: Letter from DEP to LGU reiterating need for full compliance with Auxiliary Power rule.

EXHIBITS TO
DIRECT TESTIMONY OF
LINDA B. BAMFIELD

- Exhibit ____ (LBB-14) April 27th, 1998: Letter and report from DEP to LGU notifying LGU of “Auxiliary Power” deficiency as a result of inspection on March 26th, 1998.
- Exhibit ____ (LBB-15) December 20th, 2001: Letter and report from DEP to LGU notifying LGU of “Auxiliary Power” deficiency as a result of inspection on December 19th, 2001.
- Exhibit ____ (LBB-16) February 17th, 2002: Letter from DEP to LGU indicating “no response regarding the deficiency” reported on December 19th, 2001
- Exhibit ____ (LBB-17) February 18th, 2002: Letter from DEP to LGU indicating “no response regarding the deficiency” reported on December 20th, 2001

EXHIBITS TO
DIRECT TESTIMONY OF
LINDA B. BAMFIELD

- Exhibit ___ (LBB-18) December 19th, 2002: Letter and report from DEP to LGU notifying LGU of “Auxiliary Power” deficiency as a result of inspection on December 18th, 2002.
- Exhibit ___ (LBB-19) February 17th, 2003: Letter from DEP to LGU indicating “no response regarding the deficiency” reported on December 19th, 2002
- Exhibit ___ (LBB-20) Index and Assorted Letters and Reports from the Florida Department of Environmental Protection to Little Gasparilla Utility, Inc. indicating a variety of non-compliance issues from March 8, 1996 through February 17th, 2003
- Exhibit ___ (LBB-21) Offense Incident Report Narrative, Maps and Case Update Florida Park Patrol Case # 96 J29 0153

EXHIBITS TO
DIRECT TESTIMONY OF
LINDA B. BAMFIELD

- Exhibit ____ (LBB-22) October 2, 1979: Letter from Useppa Island Club authorizing Garfield R. Beckstead as owner of Useppa Island
- Exhibit ____ (LBB-23) June 25th, 1981: Permit from Florida DEP to construct sewage collection/transmission system.
- Exhibit ____ (LBB-24) Index and Assorted Letters and Reports from the Florida Department of Environmental Protection to Useppa Island Club [owner, Garfield Beckstead] indicating a variety of non-compliance issues dating from May 15th, 1984 through February 13th, 2003
- Exhibit ____ (LBB-25) July 3rd, 1998: Letter from Useppa Island to Lee County Building Dept re. building moratorium on Useppa Island pending completion of plant improvements and modifications.

Docket No. 020745-SU

EXHIBITS TO
DIRECT TESTIMONY OF
LINDA B. BAMFIELD

Exhibit ____ (LBB-26)

Index and Assorted Letters and Reports from the Florida Department of Environmental Protection to Knight Island Utility, Inc. indicating a variety of non-compliance issues from October 6th, 1987 through May 31st, 2002.

Exhibit ____ (LBB-27)

EXAMPLE OF CHARLOTTE COUNTY'S POLICY OF ABSORBING PRIVATE UTILITIES: Resolutions of the Charlotte County Board of County Commissioners that have been approved and not yet recorded, expanding water and sewer districts to include existing private utilities to be acquired.

Docket No. 020745-SU

EXHIBITS TO
DIRECT TESTIMONY OF
LINDA B. BAMFIELD

- Exhibit ____ (LBB-28) Charlotte County, Florida, Comprehensive Plan
1997-2010 Volume 1, Chapters 1-4, Future
Land Use Element, Potable Water and Sanitary
Sewer Policy 9.1.4
- Exhibit ____ (LBB-29) [copy of policy amendment to 9.1.4 and copy of
policy 9.1.8]
- Exhibit ____ (LBB-30) Minutes of the Meeting July 8th, 2003
Agenda Item T-6
- Exhibit ____ (LBB-31) July 7th, 2003 Memo from Elliott Kampert to the
Board of County Commissioners regarding
Policy 9.1.9

EXHIBIT __ (LBB-1)

“Information for Don Pedro-Knight Island”

Prepared by

Ms. Kelly Shoemaker,

Acting Assistant Administrator for Charlotte County

May 10th, 2003 for the

Don Pedro-Knight Island Steering Committee

<http://www.charlottecountyfl.com/palmisland.htm>

[posted as “Zoning Information”]

INFORMATION FOR DON PEDRO-KNIGHT ISLAND

MAPS (Included)

Zoning

Land Use

AERIAL

Lots (Developed/Undeveloped)

ZONING CODE

RMF and RMF-T (Attached)

CHANGES IN ZONING UNDER CONSIDERATION

No zone changes under consideration. There have been other permits issued
(see attached)

PERMIT INFORMATION

	2000	2001	2002	2003TD
SF- NEW	11	27	27	6
MF	0 2/8units		0	0
Building Permits - New	11	29	27	6
Renovations	73	74	95	49

BEACH DEVELOPMENT RESTRICTIONS

Department of Environmental Protection - regulates all development seaward
of the Coastal Construction Control Line

Charlotte County

Waterfront Development (Sec. 3-9-98)

Zoning Ordinance (Sec 3-9 et al)

Comprehensive Plan - Future Land Use Map

EXHIBIT ____ (LBB-2)

Lab Project Summary

from Sanders Laboratories, Inc.

1050 Endeavor Court

Nokomis, FL 34275



Laboratory Results

*Analysis →
 Very good
 numbers -
 Supports no leeching
 into water.*

Melkus, Al
 P.O. Box 3561
 Placida, FL 33946

<u>Lab ID</u>	<u>Sample Description</u>	<u>Sample Source</u>	<u>Received Date/Time</u>	<u>Sample Date/Time</u>
N0304393-01	1 grab	Surface Water	4/23/03 12:15	4/23/03 8:00

<u>Analysis</u>	<u>Method</u>	<u>Results</u>	<u>Qual</u>	<u>Detection Limit</u>	<u>Units</u>	<u>AnalysisDate/Time</u>	<u>Analyst</u>	<u>Cert ID</u>
Fecal Coliform, MF	9222D	< 100	Q	100	col/100ml	4/23/03 14:30	RG	E84380

<u>Lab ID</u>	<u>Sample Description</u>	<u>Sample Source</u>	<u>Received Date/Time</u>	<u>Sample Date/Time</u>
N0304393-02	2 grab	Surface Water	4/23/03 12:15	4/23/03 8:00

<u>Analysis</u>	<u>Method</u>	<u>Results</u>	<u>Qual</u>	<u>Detection Limit</u>	<u>Units</u>	<u>AnalysisDate/Time</u>	<u>Analyst</u>	<u>Cert ID</u>
Fecal Coliform, MF	9222D	< 100	Q	100	col/100ml	4/23/03 14:30	RG	E84380

<u>Lab ID</u>	<u>Sample Description</u>	<u>Sample Source</u>	<u>Received Date/Time</u>	<u>Sample Date/Time</u>
N0304393-03	3 grab	Surface Water	4/23/03 12:15	4/23/03 8:00

<u>Analysis</u>	<u>Method</u>	<u>Results</u>	<u>Qual</u>	<u>Detection Limit</u>	<u>Units</u>	<u>AnalysisDate/Time</u>	<u>Analyst</u>	<u>Cert ID</u>
Fecal Coliform, MF	9222D	< 100	Q	100	col/100ml	4/23/03 14:30	RG	E84380

<u>Lab ID</u>	<u>Sample Description</u>	<u>Sample Source</u>	<u>Received Date/Time</u>	<u>Sample Date/Time</u>
N0304393-04	4 grab	Surface Water	4/23/03 12:15	4/23/03 8:00

<u>Analysis</u>	<u>Method</u>	<u>Results</u>	<u>Qual</u>	<u>Detection Limit</u>	<u>Units</u>	<u>AnalysisDate/Time</u>	<u>Analyst</u>	<u>Cert ID</u>
Fecal Coliform, MF	9222D	< 100	Q	100	col/100ml	4/23/03 14:30	RG	E84380

<u>Lab ID</u>	<u>Sample Description</u>	<u>Sample Source</u>	<u>Received Date/Time</u>	<u>Sample Date/Time</u>
N0304393-05	5 grab	Surface Water	4/23/03 12:15	4/23/03 8:00

<u>Analysis</u>	<u>Method</u>	<u>Results</u>	<u>Qual</u>	<u>Detection Limit</u>	<u>Units</u>	<u>AnalysisDate/Time</u>	<u>Analyst</u>	<u>Cert ID</u>
Fecal Coliform, MF	9222D	< 100	Q	100	col/100ml	4/23/03 14:30	RG	E84380

Client Project: melkus
 Lab Project: N0304393
 Report Date: 04/25/03

taken at one time without composition

Membrane filter 103

Laboratory Results

<u>Lab ID</u>	<u>Sample Description</u>	<u>Sample Source</u>	<u>Received Date/Time</u>	<u>Sample Date/Time</u>
N0304393-06	6 grab	Surface Water	4/23/03 12:15	4/23/03 8:00

<u>Analysis</u>	<u>Method</u>	<u>Results</u>	<u>Qual</u>	<u>Detection Limit</u>	<u>Units</u>	<u>AnalysisDate/Time</u>	<u>Analyst</u>	<u>Cert ID</u>
Fecal Coliform, MF	9222D	< 100	Q	100	col/100ml	4/23/03 14:30	RG	E84380

<u>Lab ID</u>	<u>Sample Description</u>	<u>Sample Source</u>	<u>Received Date/Time</u>	<u>Sample Date/Time</u>
N0304393-07	7 grab	Surface Water	4/23/03 12:15	4/23/03 8:00

<u>Analysis</u>	<u>Method</u>	<u>Results</u>	<u>Qual</u>	<u>Detection Limit</u>	<u>Units</u>	<u>AnalysisDate/Time</u>	<u>Analyst</u>	<u>Cert ID</u>
Fecal Coliform, MF	9222D	< 100	Q	100	col/100ml	4/23/03 14:30	RG	E84380

<u>Lab ID</u>	<u>Sample Description</u>	<u>Sample Source</u>	<u>Received Date/Time</u>	<u>Sample Date/Time</u>
N0304393-08	8 grab	Surface Water	4/23/03 12:15	4/23/03 8:00

<u>Analysis</u>	<u>Method</u>	<u>Results</u>	<u>Qual</u>	<u>Detection Limit</u>	<u>Units</u>	<u>AnalysisDate/Time</u>	<u>Analyst</u>	<u>Cert ID</u>
Fecal Coliform, MF	9222D	< 100	Q	100	col/100ml	4/23/03 14:30	RG	E84380

<u>Lab ID</u>	<u>Sample Description</u>	<u>Sample Source</u>	<u>Received Date/Time</u>	<u>Sample Date/Time</u>
N0304393-09	9 grab	Surface Water	4/23/03 12:15	4/23/03 8:00

<u>Analysis</u>	<u>Method</u>	<u>Results</u>	<u>Qual</u>	<u>Detection Limit</u>	<u>Units</u>	<u>AnalysisDate/Time</u>	<u>Analyst</u>	<u>Cert ID</u>
Fecal Coliform, MF	9222D	< 100	Q	100	col/100ml	4/23/03 14:30	RG	E84380

<u>Lab ID</u>	<u>Sample Description</u>	<u>Sample Source</u>	<u>Received Date/Time</u>	<u>Sample Date/Time</u>
N0304393-10	10 grab	Surface Water	4/23/03 12:15	4/23/03 8:00

<u>Analysis</u>	<u>Method</u>	<u>Results</u>	<u>Qual</u>	<u>Detection Limit</u>	<u>Units</u>	<u>AnalysisDate/Time</u>	<u>Analyst</u>	<u>Cert ID</u>
Fecal Coliform, MF	9222D	< 100	Q	100	col/100ml	4/23/03 14:30	RG	E84380

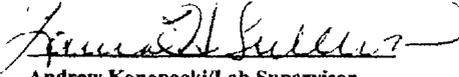
100 fecal col - per 100 ml water

Client Project: melkus
Lab Project: N0304393
Report Date: 04/25/03

Laboratory Results

Approved by:

Comments: Q = sample held beyond acceptable holding time.



Andrew Konopacki/Lab Supervisor
Laura Sullivan/QA Officer
Kathrine Bartkiewicz/Lab Supervisor

Test Results meet all the requirements of the NELAC standards

EXHIBIT ___ (LBB-2)

Lab Project Summary

Lab Project Summary

Lab Project Num: N0304393
Client: Melkus, Al
P.O. Box 3561

Total Pages: 1

Phone: Placida FL 33946
941-697-8024
Fax:
E-mail:
Client Project Name: melkus
Laboratory Contact: Jeff Walsh

-
- * A statement of estimated uncertainty of results is available upon request.
 - * Laboratory report shall not be reproduced except in full, without the written approval of Sanders Laboratories.
 - * Sanders Laboratories follows DEP standard operating procedures for field sampling.

Jeff Walsh

EXHIBIT ___ (LBB-3)

**Charlotte County GIS Map of Property
intended for Vacuum Plant Facility
owned by Palm Island Investment Corporation
and Property Appraiser's Datasheet
showing ownership by
Palm Island Investment Corporation.**

Matched Parcel Date 11/10/03
Acct 0070121-000000-7
Name PALM ISLAND INVESTMENT CORP

6614 FLAMINGO WAY S
ST PETERSBURG

FL 337072940140

Cntr

Property-----Address 1 N GULF BLVD

1 N GULF BLVD 2B33N 412033 052500000000 0001 42 120

Status ACTIVE MapNum 2B33N TnRgSc 412033 TxDi 0034
MA&Ngh 05 2500 PrpMod 000 ImpMod 000 Int% 000.000
LndUse 0001 VAC MULTIF Zone 42 RMF-T Utlty 1 WATER Road 2 UNPAVE
WF/Elv 0
Flag 0010000000000000000090001000000 Parent# Yr 00 0000000-000000-0

Sales-Desc Date Book Page Cons--Amnt-----Sales-Desc Date Book Page Cons--Amnt

Description Land---Val Clss---Val Impr---Val Bldg---Val Total---Val Corr---Val
Repl-Cost
Depr-Cost 75,077 75,077
Adj-Cost 75,077 75,077

New-----Const Del-----Const SOH Ex Res Energy-----
Value----- Year Value----- Year ExemCode Yr In% In% Mn Yr Amount-----
0000 0000 00000000 0000 00 00 00 00
Soh Add Soh Minus
Capped Value 2002 roll

Ad Valorem Tax Information

Exm Code: 00000000 Exm%
Tax-Dist Appr-Value Assd/Class Exem--Amnt Tax-----Bill E&I--Num Cer Ex Bz
0034 75,077 75,077 1,328.92 00000000 00 00
Cd Tax----Amnt Cd Tax----Amnt Cd Tax----Amnt Cd Tax----Amnt Cd Tax----Amnt
08 139.07 18 128.38 20 14.47 50 3.00 54 46.32
80 608.72 81 23.27 90 365.69

Non-Ad Valorem Tax

CdU Unit(s)--- Tax--Amnt CdU Unit(s)--- Tax--Amnt CdU Unit(s)--- Tax--Amnt

Legal Description

ZZZ 284120 P3 016.628 & 33 41 20 P-3 16.602A M/L
BEG ON N LINE SEC33 3982.8FT W
OF NE COR TH N 32DEG 22MIN E 446FT TH N 82DEG 56MIN 10SEC E 432FT TO
W/LYR/W LINE OF INTERCOASTAL CANAL
TH S 29DEG 39MIN 50SEC E ALG SAID R/W 808FT TH S 51DEG 44MIN E 758FT
TH N 32DEG 02MIN W 875FT TO POB

308/342 538/1985 544/292 544/291 583/1889

Land and ag Classification

Lin	Cd	Description	Unit-Rate	Area----	Dec	O	Appr-Value	Aj	AdjDescript	Adj--Value
L01	AA	ZZZ 284120	200.00		8	022	1,604	05	SUBMERGED	80
L02	AA	ZZZ 284120	8741.00		8	580	74,997	00		

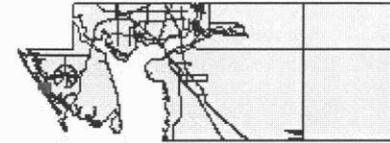
NOTES

LAND RECALCULATED PER DEED USING AUTO CAD. 8.02 ACRES SUBMERGED. TV 6/97.

Charlotte County GIS Map



Charlotte County GIS Department Copyright (C) 2003



-  Highlighted_Feature
-  Selected_Features
- Street Names
- Block Number
-  Lots
-  Accounts
- Water
-  Water
- Aerials

This map is a representation of compiled public information. It is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guaranties, implied or otherwise to the accuracy or completeness. We therefore do not accept any responsibilities as to its use. This is not a survey or is it to be used for design. C.C.G.I.S. maintains a record regarding the methods used to produce

EXHIBIT ___ (LBB-4)

November 15th, 1996 letter from the
Department of Environmental Protection
to Little Gasparilla Utility, Inc. stating that the utility
is re-classified to a "Community Water System",
effective January 1, 1997 and that Little
Gasparilla Utility, Inc. must comply
with rules for Community Water Systems.



Department of Environmental Protection

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

November 15, 1996

Mr. Jack Boyer, President
Little Gasparilla Utility, Inc.
P.O. Box 5145
Grove City, FL 34224

FILE

Re: Charlotte County - PW
Little Gasparilla Utility, Inc.
Water Treatment Plant
PWS I.D. Number 5080175
System Classification

Dear Mr. Boyer:

Thank you for your continuing efforts to maintain compliance with the Florida Safe Drinking Water Act.

The Department of Environmental Protection (DEP) has determined that the Little Gasparilla Utility Public Water System is a "Community Water System." Effective January 1, 1997, the DEP will determine compliance at Little Gasparilla Utility based upon the requirements for Community Water Systems in Chapters 62-550, 62-551, 62-555, 62-560, and 62-699, F.A.C.

Attached for your convenience is DEP's good faith assessment of Little Gasparilla Utility's contaminant monitoring requirements for the calendar year 1997. Also, Little Gasparilla Utility will need to provide a Class C or higher certified operator: one hour per day for five days per week, and one visit on each weekend day.

If you have any questions, please call me at (941) 332-6975.

Sincerely,

Gary A. Maier
Professional Engineer III

GAM/gm

attachment

cc: Robert L. Underwood, Registered Agent
Thomas W. Garrard

EXHIBIT ___ (LBB-5)

May 30th, 1997 letter from the
Department of Environmental Protection
notifying Little Gasparilla Utility, Inc.
of “Auxiliary Power” deficiency
as a result of inspection on May 20th, 1997
(inspection report attached)



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

May 30, 1997

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Island Utility
PWS I.D. Number: 5080175
Compliance Inspection Report

Dear Mr. Boyer:

Enclosed is your copy of the recently completed Compliance Inspection Report for the referenced public drinking water system.

Deficiencies listed in the Report may be violations of Rules 62-550 and 62-555, F.A.C. Please correct all deficiencies and notify the Department in writing of corrective actions completed, **postmarked no later than June 30, 1997**. For those deficiencies which cannot be corrected by that date, please submit a written request for a time extension that proposes specific deadlines to complete corrective actions.

Recommendations are included in the Report. Recommendations are not requirements of State law. They are provided as guidelines towards optimizing water treatment plant operation.

If you have any questions, contact me at the letterhead address or call 941-332-6975. Please include the system name and PWS I.D. number on any correspondence.

Sincerely,

Louis P. LeMaire
Engineer III

LPL/dd
cc: Mr. Robert Underwood, Registered Agent
Mr. Alan Slater
Mr. Kyle James
Enclosures

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

SANITARY HAZARDS:

- | | |
|---|---|
| <input checked="" type="checkbox"/> NONE OBSERVED | <input type="checkbox"/> FUEL STORAGE TANK WITHIN 100 FT. |
| <input type="checkbox"/> SEPTIC SYSTEM WITHIN 200 FT. | <input type="checkbox"/> OTHER - 100 FT. _____ |
| <input type="checkbox"/> SEWAGE PERC PONDS 500 FT. | |

DEFICIENCIES:

WELLS:

1. Electrical wiring may be unsafe - Repair or replace wiring to conform with local electrical code.
2. The wells are leaking, corroding and require maintenance, including the debris around well # 2 ie. old lawnmower and other debris - Develop a preventive maintenance program to continually paint portions of the wells and clean the areas around the wells. "The supplier of water shall maintain in good condition all equipment," Rule F.A.C. 62-555.350(1).

PLANT:

1. Paint and other drums (some unidentified) are stored on top of the storage tank - Remove any material that may contaminate the drinking water from the top of the storage tank, F.A.C. 62-555.320.
2. Storage tanks appeared to be dirty inside (sediment and debris on bottom) - American Water Works Association (AWWA) D101-53 (R1979) states "all water tanks should be thoroughly inspected at intervals of not more than five (5) years," and cleaned, painted or repaired if required.
3. Maintenance appears to be inadequate, water over floor, inadequate illumination, electrical wiring not up to code etc. - "The supplier of water shall maintain in good condition all equipment," Rule F.A.C. 62-555.350(1).
4. Chlorinator (and other chemical feeders) not adequate, ie. opening storage tanks for an extended period and adding chlorine by hand not acceptable - Replace present chlorination with system that will add chlorine on demand. In addition, the Department recommends an additional stand-by chlorinator be provided in accordance with 62-555.320(5).
5. Auxiliary power - Be certain that the auxiliary power is operated at least once per month for a minimum of four continuous hours under load (or one hour per week) and maintain an auxiliary power logbook to document the frequency and dates that the auxiliary power is used, F.A.C. Rule 62-555.320(6).

CONTINUED ON NEXT PAGE

6. Cross-connection control program required of all Community systems - Submit cross-connection control program to the Department in accordance with F.A.C. Rule 62-555.360(2). Contact David Hutchinson of Florida Rural Water Association for technical assistance.
7. Vent and access lids on Storage tanks and the degassifier must be sealed and or screened - All Storage tanks must be screened and locked against the entrance of vermin, insects etc. and vandalism.
8. Florida Rural Water Association determined that the "Finished water" meter was reading inaccurately by about 50% - "All community systems shall be equipped with a metering device that accurately indicates pumpage of finished water, F.A.C. Rule 62-555.320(8).

RECOMMENDATIONS:

1. Complaints submitted that a) several water outages b) water mains not flushed as required c) storage tanks left open when operators not present d) periodic reduction of pressure, toilets cannot be flushed (usually on Holiday weekends) - Correct problems and develop and maintain a Public Relations effort to curb any dissatisfied customers.
2. Lead and Copper monitoring required for all Community water systems - Remember to submit Lead and copper Sampling Plan ASAP and conduct monitoring prior to July 1, 1997, and submit results prior to October 10, 1997. Failure to conduct this monitoring is a violation of State Law.
3. It was noted that the piping for the concentrate into the reject wells was leaking - Please be certain that the concentrate piping to the wells does not leak.
4. The Department recommends Monthly inspections of all Finished Water Storage Tanks. We frequently observe debris, insects, frogs etc. in the storage tanks.

We believe that it would be a good practice to climb these tanks monthly, check all screening, hatchways, and open for a look at the water inside to evaluate the cleanliness of the product.

Inspected by: _____

Louis LeMaire
Engineer III

Approved by: _____

Gary Maier
Professional Engineer III

EXHIBIT ____ (LBB-6)

July 7th, 1997 DEP Internal Memorandum

**logs phone call from Jack Boyer of
Little Gasparilla Utility, Inc. indicating
that all deficiencies from the compliance
inspection would be corrected soon.**

CONVERSATION RECORD

COUNTY Charlotte DATE 7/7/97 TIME 9:00 am

M Jack Boyer PHONE # _____

ADDRESS _____

Telephoned Came in Was Called

RE: Little Gasparilla Utility # 6080175

CONVERSATION: Called to notify Dep't that most all deficiencies on SS are complete and all will be completed soon. Has 4 sub meters for finished water.

- Will be replacing Dist. Pumps to maintain flows during Peak demands
- Contacted PSC to notify sale not going thru.

- Connection to Potomac West - he will be paying fine soon, afraid to go on property to disconn. will contact Hugh Swarall

FURTHER ACTION REQUIRED: YES () NO ()

FOLLOW-UP ACTION REQUIRED: Jack is to write letter restatus of deficiencies.

- Also letter about interconnect

SUSPENSE DATE: _____

Don Lemaire
ENVIRONMENTAL SPECIALIST

EXHIBIT ____ (LBB-7)

January 7th, 1998 Letter from the
Department of Environmental Protection
to Little Gasparilla Utility, Inc. in which
Little Gasparilla Utility, Inc. is told
to be in full compliance with “Auxiliary Power”
requirement by January 31st, 1998.



Department of **FILE**
Environmental Protection

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

January 7, 1998

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Island Utility, Inc.
PWS I.D. Number: 5080175
Compliance Inspection Follow-up

Dear Mr. Boyer:

It was brought to the Department's attention, through a complaint, that there was a lack of Potable water on December 30, 1997. This outage extended from 1:30 am to approximately 12:30 pm, and was apparently due to a loss of power on the island. The complainant contends that there were several other complaints.

Auxiliary power may not have been provided as required, F.A.C. Rule 62-555.320(6) "community systems that serve 350 or more persons, or have 150 or more service connections, shall provide auxiliary power.....", "the auxiliary power source shall be operated at least once per month continuously for a minimum of four hours under load to ensure dependability."

This was itemized in the compliance inspection dated May 30, 1997. Please ensure that Little Gasparilla Utility is in full compliance with Rule 62-555.320(6), F.A.C., not later than January 31, 1998.

As a reminder, Corrosion Control recommendations are required by January 10, 1998. We have not received a copy of the public education program requirement either. Please respond!

If you have any questions, please contact Louis LeMaire at the letterhead address or call 941-332-6975. All correspondence must include the system name and PWS I.D. number.

Sincerely,

A handwritten signature in cursive script that reads "Gary A. Maier".

Gary A. Maier
Professional Engineer

GAM/LPL/klm
cc: Mr. Robert Underwood, Registered Agent
Mr. Kyle James

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

EXHIBIT ___ (LBB-8)

February 3rd, 1998 letter from Little Gasparilla Utility, Inc.
to Department of Environmental Protection responding
to letter of January 7th regarding "Auxiliary Power" deficiencies.

95321-4000 LITTLE GASPARILLA UTILITY, INC.
P. O. BOX 5145
GROVE CITY, FLORIDA 34224
(941) 697-8141

February 3, 1998

Department of Environmental Protection
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901

Attention: Mr. Gary A. Maier

Dear Mr. Maier:

Mr. Maier, I have three things that I need to discuss and Mr. LeMaire said I should put them in writing to you. Here is an attempt.

First, Emergency Power - When this plant was originally designed and permitted it was not required to have emergency power at that time. Emergency power had been installed for the purpose of distribution and distribution only. The thought behind this is that if there were a hurricane, the island would be the last place to receive electrical service. Therefore, we felt we could ration water over an estimated period at certain intervals during each day. This would allow full time residents, if possible, to set up camp at their homesites. The reason for rationing water was because we would not have the ability to manufacture water. Therefore, we would be limited to our storage tanks only. This type of propane backup system would be very difficult if not impossible to put on telepathy. If you do require a backup system I will probably go to a small generator with a secondary distribution pump, but still would not be able to manufacture water under these conditions.

Something that affects this backup power question and also would improve the integrity of the system would be the interconnect between Rotonda Utilities and Little Gasparilla Utilities. As you may or may not know, I have come to a tentative agreement with the DEP Parks Division which will allow me to attempt to permit this line which apparently from their standpoint was illegally installed. Rotonda Utilities informed me that the Public Service Commission had agreed to or approved this inner connect agreement for emergency purposes only. What I am asking is - will the DEP on the water side help support an inner connect between Rotonda and Little Gasparilla Water Co. which will substantially effect the health, safety, and welfare of these residents for which LGU water authority has the responsibility to

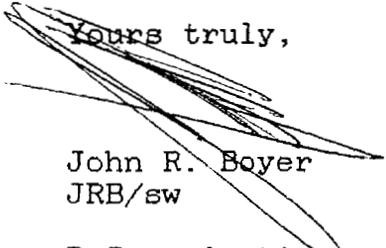
provide the best service possible. If you have any suggestions on how I should best attempt the one possibility for this permit, PLEASE HELP me.

January, 1997, I was changed to a community utility which required a C or better operator. You may not know but I helped in the design as well as with the operator for the nine years previous. I do not only know this system inside and out, but can repair just about any problem that might arise. For the past year we have spent approximately \$18,000 on the water plant operator. This did not provide any maintenance, for the operator meets the minimum standards that the state requires. What I am asking is if it is possible for me, with a D water plant license to take over operation on the weekends? My intentions, for approximately the same expenditures, is to hire an operator that will put approximately 15 to 20 hours a week not only in water plant operation, but maintenance as well as capital improvements and even more importantly, it will allow someone other than myself to know the system.

I know I am asking a lot in all three areas but these are things that will truly help this utility.

Have a great day!

Yours truly,



John R. Boyer
JRB/sw

P.S. Anytime you would like to come to the island to further understand this utility, I am at your disposal.

EXHIBIT ___ (LBB-9)

February 6th, 1998 letter from
Department of Environmental Protection
to Little Gasparilla Utility, Inc.
citing failure to comply re. "Auxiliary Power"



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

February 6, 1998

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Island Utility
Drinking Water System
PWS ID# 5080175

Dear Mr. Boyer:

The Department of Environmental Protection (DEP) received information and complaints indicating that the Little Gasparilla Utility (LGU) Drinking Water System may have been out of service for an extended period of time beginning at approximately 10:30 PM on February 5, 1998. The interruption in water service may have been due to an electrical power failure.

Please provide a written report to the DEP postmarked not later than February 20, 1998, describing this incident. The report must include (A) the cause of the problem, (B) the period of the water outage, including dates and times, and (C) the steps being taken to prevent recurrence.

The DEP is concerned that LGU may have failed to comply with Rule 62-555.320(6), F.A.C., "Auxiliary Power." A copy of that rule is attached for your convenience. In the written report requested above, please show cause why the DEP should not pursue enforcement action against LGU for an alleged violation of that rule.

If you have any questions, please call me at 941/332-6975.

Sincerely,

Gary A. Maier
Professional Engineer III

attachment

cc: Mr. Robert Underwood (w/attachment)

GAM/gm

Rule 62-555.320(6) AUXILIARY POWER.

(a) Community systems that serve 350 or more persons, or have 150 or more service connections, shall provide auxiliary power for operation of the source, treatment units and pumps at a rate equal to one-half maximum daily flow.

(b) The auxiliary power requirements may be met by providing:

1. a connection to at least two independent power lines, or
2. an interconnection to at least one other public water supply system that has sufficient reserve capacity, or
3. in-place auxiliary power which, together with storage capacity, meets the requirements of paragraph (a). In-place auxiliary power sources shall be equipped with an automatic start up device. Portable power without an automatic start-up device may be provided where 24 hour, 7 days per week supervision is provided.

(c) The auxiliary power source shall be operated at least once per month continuously for a minimum of four hours under load to ensure dependability.

(d) For demineralization type systems such as reverse osmosis or electrodialysis, source, distribution, pumping and disinfection capability requirements only apply.

(e) Each community water system shall maintain a written auxiliary power plan that details how it meets the requirements of this subsection. This plan shall be available for review by the Department during the time of a routine sanitary survey.

EXHIBIT ___ (LBB-10)

February 6th, 1998 Interoffice Memorandum
regarding complaint of loss of water due to
power outage: "The Aux power at the WTP does not work."

I N T E R O F F I C E M E M O R A N D U M

Sensitivity: COMPANY CONFIDENTIAL

Date: 06-Feb-1998 09:40am EST
From: Louis LeMaire FTM
LEMAIRE_L
Dept: South District Office
Tel No: 941/332-6975
SUNCOM: 748-6975

TO: Gary Maier FTM

(MAIER_G)

CC: Patty Baron FTM

(BARON_P)

CC: Mark Charneski FTM

(CHARNESKI_M)

Subject: Little Gasparilla

We sent Jack Boyer a compliance inspection follow-up letter 1/7/98 on 2 issues:

- 1) Aux power
- 2) Lead & Copper Corr cont.

He Telecommunicated with me 1/21/98.

- 1) He discussed hooking up with Rotonda West to take care of the Aux Power, and that he would need help with DEP permitting.
- 2) He was to call FRWA to have an RTW study done.

We left it that he was to write a letter to Gary during 1/26-1/30/98 explaining his status and asking for direction.

He has not sent Gary a letter, but Dave H. has been out there.

I received a call today, 8:33 am on (2/6/98) from Kathy Batsil representing Hideaway Bay (Little Gasparilla Island), stating that there was an FPL power outage on 2/5/98 (blown transformer), and no water since that time, 10:30 pm. The Aux power at the WTP does not work.

I contacted Kyle James, (this is his last day there), and he is on his way to the Plant. Jack is there at the plant (9:00am). Kyle will notify the new operator to take 2 days of Bactis (Joe Gueltzow "C" 6144 (941)359-1870, presently at Pine Island Sewer Plant and is double licensed). Joe is to call us and talk to us.

Kathy Batsil is in the process of posting "Boil Water notices" for all the residences.

That's all for now

Lou

EXHIBIT ___ (LBB-11)

February 6th, 1998 Interoffice Memorandum
regarding complaint of loss of water
due to power outage: "there is no auxiliary power
to run the water system."

I N T E R O F F I C E M E M O R A N D U M

Date: 06-Feb-1998 03:42pm EST
From: Gary Maier FTM
MAIER_G
Dept: South District Office
Tel No: 941/332-6975
SUNCOM: 748-6975

TO: Louis LeMaire FTM (LEMAIRE_L)

CC: Mark Charneski FTM (CHARNESKI_M)

Subject: Little Gasparilla Utility

I talked to Kyle James of American Commonwealth at 3:38 PM on February 6, 1998.

He told me that Little Gasparilla is still without power and water, and that there is no auxiliary power supply to run the water system.

He also told me that precautionary boil water notices were placed up all over the place, and that he left a message for the new operator to take two consecutive day bacti clearance samples when the water service is restored.

EXHIBIT ____ (LBB-12)

February 20th, 1998 letter response from
Little Gasparilla Utility, Inc. to the
Department of Environmental Protection
regarding lack of auxiliary power.

LITTLE GASPARILLA UTILITY, INC.
P. O. BOX 5159
GROVE CITY, FLORIDA 34224

(941) 697-8141

February 20, 1998

Department of Environmental Protection
P. O. Box 2549
Fort Myers, Florida 33902-2549

Attention: Mr. Gary A. Maier

Re: Your letter dated 2-6-98

Dear Gary:

I am pleased to inform you that in a state of emergency of loss of power, Little Gasparilla Utility now has access to a 4" pump that can deliver 300 gallons per minute and up to 100 PSI. This is not something to be placed as a permanent backup for emergency power but is merely for the interim while our original auxiliary pump is being repaired.

Our original auxiliary pump, as of yesterday, February 19, 1998, has been extracted from our primary water tank. We have now been able to fully analyze what it will take to put this pump back on line. I would estimate no shorter than 30 days but probably not longer than sixty to have this pump back in operation.

Gary, in reference to your letter of February 6th, I believe it to be very tricky as well as deceiving on the part of the DEP. However, I understand it is probably my responsibility to be able to recite every possible Florida Statute as well as rule with ten numbers behind it, but even the possibility of the threatening of enforcement action in this letter really disturbs me. Is the process of the DEP to work with a water plant representative to improve the health, safety and welfare or to try and build a case for the purpose of making themselves look good? If you will look at my letter of 2-3-98, also letter dated 7-7-97, and then refer to drinking water compliance inspection report dated 5-20-97, in which, if you would please recall, I requested this inspection for the purpose of a transfer of assets to a not-for-profit corporation. At that time, I was informed or I guess requested but never told, that auxiliary power was mandatory for this size utility. However, it had been designed for the purpose of hurricane sustained damage which I stated in my letter dated 2-3-98. Just as we speak, for the first time I just received a copy from your letter of rule 62-555.320 (6) which I now can understand. Because I understood this rule to be just for the operation of auxiliary power of one hour per week from your deficiency report auxiliary power No. 5.

RECEIVED

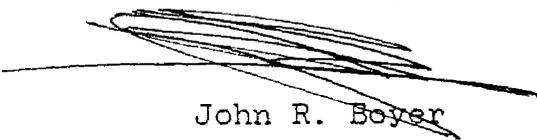
MAR 02 1998

DEP - South District

If you feel the need to penalize a not-for-profit utility because of a misunderstanding, then please contact Tom Garrard at (941) 639-7020, who is the attorney of record and should deal with this matter.

I realize you are a very busy person, but again, at your convenience, I would be glad to present this utility so that you might have a better understanding and be able to assist in future development. I still think an inter connect agreement is the one thing that will improve the stability and reliability of this utility. Example: We blow an O ring in one membrane after the operator leaves the plant for his one hour inspection, when he returns the next day he has been blending some 10,000 TDS water. Under this scenario it would take 2 to 3 weeks to get water back into potable limits. If there were an inter connect, we could simply close one valve, open another, drain the tanks, and refill them. Please help.

Yours truly,



John R. Boyer

JRB/sw

Thomas W. Garrard
520 E. Olympia Ave.
Punta Gorda, FL
33950-3841

741/639-7020

EXHIBIT ____ (LBB-13)

March 10th, 1998 letter from
Department of Environmental Protection
to Little Gasparilla Utility, Inc.
reiterating need for full compliance
with Auxiliary Power rule.



Department of Environmental Protection

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

March 10, 1998

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

FILE

Re: Charlotte County - PW
Little Gasparilla Utility, Inc.
Drinking Water System
PWS ID# 5080175

Dear Mr. Boyer:

Thank you for your two letters, dated February 3 and February 20, 1998, regarding auxiliary power, interconnection, and certified operator coverage. I will try to address each issue raised in your letters, and end by summarizing some additional regulatory requirements that may still be outstanding for Little Gasparilla Utility, Inc. (LGU).

CERTIFIED OPERATOR COVERAGE:

You requested relief from the water treatment plant classification and staffing requirements in Chapter 62-699, F.A.C. Unfortunately, the Department of Environmental Protection (DEP) must deny your request at this time because LGU has not provided the DEP with reasonable assurance of compliance with Rules 62-550.518(9), 62-550.518(11), 62-550.320, 62-550.800, 62-555.320(6), 62-555.350(1), 62-555.350(3), 62-555.360(2), 62-555.520(1), 62-699.311(3), and 62-699.311(8), F.A.C., and 40 CFR 141, Subpart I.

Pursuant to Chapter 62-699, F.A.C., LGU's Water Treatment Plant must be staffed by a Class C or higher operator: 1 hour per day for 5 days per week and one visit on each weekend day.

PROPOSED INTERCONNECTION:

The DEP's Drinking Water Section generally believes that interconnection of approved public water systems for emergency purposes is a good idea. Pursuant to Rule 62-555.520, F.A.C., LGU must obtain a Drinking Water System Construction Permit from the DEP **prior** to commencing construction. In order to request a permit, LGU must make application to the DEP using DEP Form 62-555.900(1) or 62-555.900(7). LGU is welcome to consult with DEP personnel before submitting an application, or at any other time.

Jack Boyer
March 10, 1998
Page 2

AUXILIARY POWER:

As you are aware, full compliance with Rule 62-555.320(6), F.A.C., is required.

POSSIBLE OUTSTANDING AND OVERDUE REGULATORY REQUIREMENTS:

Pursuant to Rule 62-555.360(2), F.A.C., LGU must submit a routine written cross-connection control program that is developed using accepted practices of the American Water Works Association.

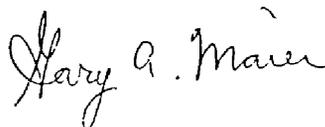
Pursuant to Rules 62-550.800, and 62-555.401, F.A.C., LGU must submit its recommendation for corrosion control to the DEP for approval. Also, LGU must submit proof of compliance with the public education requirements of 40 CFR 141.85.

REGARDING YOUR INVITATION TO VISIT THE LGU PLANT:

I would very much like to visit the LGU water treatment facility and meet with you in the near future. We should plan to spend at least two hours reviewing important Drinking Water regulations that are applicable to LGU. I will bring an extra copy of the Drinking Water regulations for you. I propose that Lou LeMaire and I meet with you at your facility at **1:00 PM on Tuesday, March 17, 1998**. You are welcome to invite anybody else to the meeting.

If you have any questions, please call me at 941/332-6975.

Sincerely,



Gary A. Maier
Professional Engineer III

cc: Robert Underwood
Bruce Weithe
Joe Gueltzow
Thomas W. Garrard

GAM/gm

EXHIBIT ____ (LBB-14)

April 27th, 1998 letter and report from
Department of Environmental Protection
to Little Gasparilla Utility, Inc.
notifying Little Gasparilla Utility, Inc.
of "Auxiliary Power" deficiency
as a result of inspection on March 26th, 1998.



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

New Mailing Address:
Post Office Box 2549
Fort Myers, FL 33902-2549

April 27, 1998

Mr. Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility, Inc.
PWS I.D. Number: 5080175
Sanitary Survey Report

Dear Mr. Boyer:

Enclosed is your copy of the recently completed Sanitary Survey Report for the referenced public drinking water system.

The deficiencies listed in the Report, may be violations of Rules 62-550 and 62-555, F.A.C. Please correct the deficiencies as soon as possible and notify the Department in writing of corrective actions completed, postmarked no later than May 27, 1998. For those deficiencies which cannot be corrected by that date, please submit a written request for a time extension that proposes specific deadlines to complete corrective actions.

Recommendations are included in the Report. Recommendations are not requirements of State law, they are provided as guidelines towards optimizing water treatment plant operation.

If you have any questions, Please contact me at the letterhead address or call 941-332-6975. All correspondence must include the system name and PWS I.D. number.

Sincerely,

A handwritten signature in black ink, appearing to read "Louis P. LeMaire", is written over a horizontal line.

Louis P. LeMaire
Engineer III

LPL/klm
Enclosures
cc: Mr. Robert Underwood, Registered Agent
Mr. Joseph Gueltzow

DEFICIENCIES:

1. **Auxiliary power and plan not available - Install and operate auxiliary power at least once per month for a minimum of four continuous hours under load, (the equipment manufacturers recommend operating one hour per week, and the Department concurs), and maintain an auxiliary power logbook to document the frequency and dates that the auxiliary power is used. Auxiliary power test runs must also be reported on the Monthly Operation Report. F.A.C. Rule 62-555.320(6).**
2. **Cross-connection control program not submitted - Submit cross-connection control program to the Department in accordance with F.A.C. Rule 62-555.360(2). Please contact David Hutchinson of Florida Rural Water Association for technical assistance.**
3. **Some vents on Storage tanks are not screened - All Storage tanks must be sealed/screened/locked against the entrance of vermin, insects etc. and vandalism.**
4. **Poor maintenance of the wells - Seal all openings to well, to be certain that well cannot be contaminated and improve maintenance. "The supplier of water shall maintain in good condition all equipment," Rule F.A.C. 62-555.350(1).**
5. **Chemical tanks open on top - Eliminate openings in Chemical tanks by enclosing with screen or plastic to avoid any possible contamination by insects, vermin etc.**

RECOMMENDATIONS:

1. **The Department recommends a periodic inspection program for the finished water storage tanks. American Water Works Association (AWWA) D101-53 (R1979) states "all water tanks should be thoroughly inspected at intervals of not more than five (5) years," and cleaned, painted or repaired if required. Please advise the Department in writing of any inspection or cleaning,**
2. **Externally, some piping & valves are corroding and require maintenance and painting - Consider a preventive maintenance program to continually paint portions of the Water Treatment Systems. The supplier of water shall maintain in good condition all equipment, Rule F.A.C. 62-555.350(1). This should significantly decrease any detrimental corrosion, and would improve/maintain the overall appearance of the WTPs.**
3. **The Department recommends Monthly inspections of all Finished Water Storage Tanks. We frequently observe debris, insects, frogs etc. in the storage tanks.**

We believe that it would be a good practice to climb these tanks monthly, check all screening, hatchways, and open for a look at the water inside to evaluate the cleanliness of the product.

Inspector [Signature] Title Engineer III Date 4/27/98
Approved by [Signature] Title P.E. III Date 4/28/98

EXHIBIT ____ (LBB-15)

December 20th, 2001 letter and report from
Department of Environmental Protection
to Little Gasparilla Utility, Inc.
notifying Little Gasparilla Utility, Inc.
of "Auxiliary Power" deficiency
as a result of inspection on December 19th, 2001



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

December 20, 2001

Jack Boyer, President
Little Gasparilla Water Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility
PWS I.D. Number: 6080175
Sanitary Survey Report

Dear Mr. Boyer:

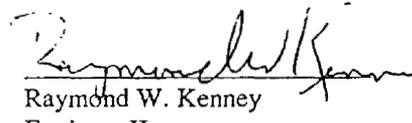
Enclosed is your copy of the recently completed Sanitary Survey Report for the referenced public drinking water system.

The deficiencies listed in the Report may be violations of Rules 62-555, F.A.C. Please correct all deficiencies as soon as possible and notify the Department in writing of corrective actions completed, postmarked no later than January 25, 2002 or e-mail me at Raymond.Kenney@dep.state.fl.us. For those deficiencies, which cannot be corrected by that date, please submit a written request for a time extension that proposes specific deadlines to complete corrective actions.

Recommendations are included in the Report. Recommendations are not requirements of State law, they are provided as guidelines towards optimizing water treatment plant operation.

If you have any questions, please contact me at the letterhead address, call 941-332-6975, extension 119 or e-mail me at Raymond.Kenney@dep.state.fl.us. Please include the system name and PWS I.D. number with all correspondence.

Sincerely,


Raymond W. Kenney
Engineer II

RWK
cc: Mr. Robert Underwood, Registered Agent
Mr. Joseph M. Gueltzow

"More Protection, Less Process"

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DEFICIENCIES:

1. Auxiliary power and plan not available. "Community systems that serve 350 or more persons, or have 150 or more service connections, shall provide auxiliary power for operation of the source, treatment units and pumps at a rate equal to one-half maximum daily flow." Rule 62-555.320(6)(a), F.A.C.
2. Seals on storage tank lids need new gasketing. "The supplier of water shall maintain all equipment in good operating condition..." Rule 62-555.350(1), F.A.C.
3. The gates to the wells need to be locked. " completely weatherproof or submersible installations need only be protected from tampering and vandalism." Rule 62-555.315(2)(d), F.A.C.

RECOMMENDATIONS:

1. The pulleys on the RO feed pump need a guard.

Inspected by: Raymond W. Kenney Raymond W. Kenney Title Engineer II Date 12/20/01
Approved by: James Oni James Oni Title P.E. III Date 12/20/01

EXHIBIT ___ (LBB-16)

February 17th, 2002 letter from
Department of Environmental Protection
to Little Gasparilla Utility, Inc.
indicating “no response regarding the deficiency”
reported on December 19th, 2001.



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

February 17, 2003

Jack Boyer, President
Little Gasparilla Water Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility
PWS I.D. Number: 6080175
Compliance Inspection Report

Dear Mr. Boyer:

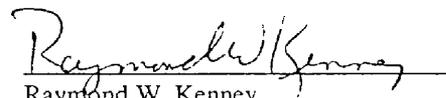
A Compliance Inspection Report for the referenced public drinking water system was sent to your attention on December 19, 2002.

Deficiencies were listed in the Report. The deficiencies were to be corrected as soon as possible and the Department was to be notified in writing or e-mailed at Raymond.Kenney@dep.state.fl.us of corrective actions completed, no later than January 31, 2003. For those deficiencies, which could not be corrected by that date, you were to submit a written request for a time extension that proposed specific deadlines to complete corrective actions.

To date the Department has received no response regarding the deficiencies. Please notify the Department in writing, postmarked no later than March 21, 2003 of corrective actions taken to correct the deficiencies.

If you have any questions, please contact me at the letterhead address, call 239-332-6975, extension 119 or e-mail me at Raymond.Kenney@dep.state.fl.us. Please include the system name and PWS I.D. number with all correspondence.

Sincerely,


Raymond W. Kenney
Engineer II

RWK
cc: Mr. Joseph M. Gueltzow

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EXHIBIT ___ (LBB-17)

February 18th, 2002 letter from
Department of Environmental Protection
to Little Gasparilla Utility, Inc.
indicating “no response regarding the deficiency”
reported on December 20th, 2001.



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

February 18, 2002

Jack Boyer, President
Little Gasparilla Water Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility
PWS I.D. Number: 6080175
Sanitary Survey Report

Dear Mr. Boyer:

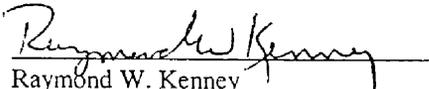
A Sanitary Survey Report for the referenced public drinking water system was sent to your attention on December 20, 2001.

Deficiencies were listed in the Report. The deficiencies were to be corrected as soon as possible and the Department was to be notified in writing or e-mailed at Raymond.Kenney@dep.state.fl.us of corrective actions completed, no later than January 25, 2002. For those deficiencies, which could not be corrected by that date, you were to submit a written request for a time extension that proposed specific deadlines to complete corrective actions.

To date the Department has received no response regarding the deficiencies. Please notify the Department in writing, postmarked no later than March 4, 2002 of corrective actions taken to correct the deficiencies.

If you have any questions, please contact me at the letterhead address, call 941-332-6975, extension 119 or e-mail me at Raymond.Kenney@dep.state.fl.us. Please include the system name and PWS I.D. number with all correspondence.

Sincerely,


Raymond W. Kenney
Engineer II

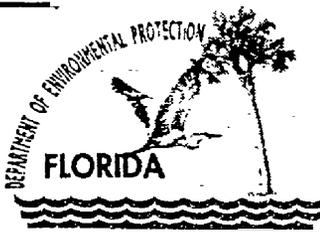
RWK
cc: Mr. Robert Underwood, Registered Agent
Mr. Joseph M. Gueltzow

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EXHIBIT ___ (LBB-18)

December 19th, 2002 letter and report from
Department of Environmental Protection
to Little Gasparilla Utility, Inc.
indicating “no response regarding the deficiency”
reported on December 18th, 2002.



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

December 19, 2002

Jack Boyer, President
Little Gasparilla Water Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility
PWS I.D. Number: 6080175
Compliance Inspection Report

Dear Mr. Boyer:

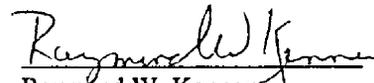
Enclosed is your copy of the recently completed Compliance Inspection Report for the referenced public drinking water system.

The deficiencies listed in the Report may be violations of Rules 62-555, F.A.C. Please correct all deficiencies as soon as possible and notify the Department in writing of corrective actions completed, postmarked no later than January 31, 2003 or e-mail me at Raymond.Kenney@dep.state.fl.us. For those deficiencies, which cannot be corrected by that date, please submit a written request for a time extension that proposes specific deadlines to complete corrective actions.

Recommendations are included in the Report. Recommendations are not requirements of State law, they are provided as guidelines towards optimizing water treatment plant operation.

If you have any questions, please contact me at the letterhead address, call 239-332-6975, extension 119 or e-mail me at Raymond.Kenney@dep.state.fl.us. Please include the system name and PWS I.D. number with all correspondence.

Sincerely,


Raymond W. Kenney
Engineer II

RWK
Enclosure
cc: Mr. Joseph M. Gueltzow (w/enc)

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RESSURE

Plant: 40 psi
 Remote: A - 40 psi; B - 40 psi

PWS: 6080175

Date: 12/18/02

AERATION

Type Degassifier
 Condition Good

OTHER TREATMENT PROCESSES

RO; pH adjustment (lime); anti-scale (AF 600); cartridge filtration

OTHER

Flow Measuring Device: Meter
 Backflow Prevention Device: Yes
 Cross-connection Observed? No

(G) Ground (C) Clearwell (E) Elevated
 (B) Bladder (H) Hydropneumatic/flow-through

Tank type	G	G	G	B
Capacity (gals)	146,600	12,000	12,000	30
Material	Concrete	Concrete	Concrete	Steel
Gravity drain	N	N	N	N
By-pass piping	N	N	N	Y
Pressure gauge	N/A	N/A	N/A	N/A
On/Off pressure	N/A	N/A	N/A	N/A
Sight glass	N/A	N/A	N/A	N/A
Fittings for sight glass	N/A	N/A	N/A	N/A
Air release valve	N/A	N/A	N/A	N/A
Pressure relief valve	N/A	N/A	N/A	N/A
Access padlocked	Y	Y	Y	Y

DEFICIENCIES:

1. The raw water tap at both wells must be downward facing. "A conveniently accessible, down-opening, smooth nosed, sampling tap, located a minimum distance of 12 inches above ground surface, shall be provided on the discharge side of each pump on the upstream side of the check valve before the chlorine ejection point so that samples of raw water may be obtained from the well." Rule 62-555.315(2)(f), F.A.C.

2. The system does not have auxiliary power for the wells (source) and the disinfection system. The gas engine on high service pump #3 is the auxiliary power for distribution. The auxiliary power requires an automatic start-up device. The auxiliary power source shall be operated at least once per month continuously for a minimum of four hours under load to ensure dependability.

"Community systems that serve 350 or more persons, or have 150 or more service connections, shall provide auxiliary power for operation of the source, treatment units and pumps at a rate equal to one-half maximum daily flow." Rule 62-555.320(6)(a), F.A.C.

"Auxiliary requirements may be met by providing: 1. A connection to at least two independent power lines, or 2. An interconnection to at least one other public water supply system that has sufficient reserve capacity, or 3. In-place auxiliary power sources shall be equipped with an automatic start up device. Portable power without an automatic start-up device may be provided where 24 hour, 7 days per week supervision is provided." Rule 62-555.320(6)(b), F.A.C.

"The auxiliary power source shall be operated at least once per month continuously for a minimum of four hours under load to ensure dependability." Rule 62-555.320(6)(c), F.A.C.

"For demineralization type systems such as reverse osmosis or electro dialysis, source, distribution, pumping and disinfection capability requirements only apply." Rule 62-555.320(6)(d), F.A.C.

"Each community water system shall maintain a written auxiliary power plan that details how it meets the requirements of this subsection. This plan shall be available for review by the Department during the time of a routine sanitary survey." Rule 62-555.320(6)(e), F.A.C.

RECOMMENDATIONS:

1. Label the lime hydrate drum, the lime solution drum and the hypochlorite drum.
2. A separate log of the operation of the generator should be maintained.
3. Provide the pumping information on the new well pump(s).

NOTE: Rule 62-555 is presently being revised. The revisions should be adopted in final form in early 2003. Changes are proposed for the section on auxiliary power. The exemption for not requiring auxiliary power for reverse osmosis units is proposed to be deleted. (Your system shall have to provide standby power to operate the wells, treatment and pumping facilities at a rate at least equal to the design average daily water demand for the system). Your system needs to review the final revised regulations to see what impact they will have on the system, particularly for standby power.

NOTE: REMINDER TO CLEAR WATER SYSTEM MODIFICATION BEFORE PLACING IT INTO SERVICE

After construction or modification of the drinking water system and prior to placing the modified water system into use, you must submit the following items to the Department for approval in accordance with Rule 62-555.345, F.A.C.:

- a. Certified record drawings of the system signed and sealed by engineer of record;
- b. Engineer's Certification of Completion of Construction and Request for Letter of Release, submitted on DEP form 62-555.900(9) signed and sealed by the engineer and signed by the utility or the person accepting responsibility for the maintenance of the water system;
- c. Satisfactory analysis results from bacteriological samples collected on two consecutive days, immediately downstream of the water plant and at least one sample collected from the beginning and end of each new water main or branch line. In case of long water mains, one sample shall be collected every 1000 feet along the main:

(Bacteriological results submitted that are over 30 days old, or missing the residual chlorine and pH levels will be rejected by the Department and replacement sample results will be required before the Department will issue a clearance letter).

- d. Any additional well survey and chemical analyses necessary for the clearance of the system. *(See specific conditions of the permit).

If you have any questions, please call Mark Johnson at 239-332-6975, extension 128.

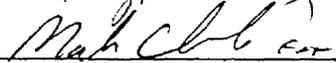
Inspector : Raymond W. Kenney		Engineer II	Date 12/19/2002
Approved By ; James Oni		P.E. III	Date 12/19/2002

EXHIBIT ___ (LBB-19)



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

February 17, 2003

Jack Boyer, President
Little Gasparilla Water Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility
PWS I.D. Number: 6080175
Compliance Inspection Report

Dear Mr. Boyer:

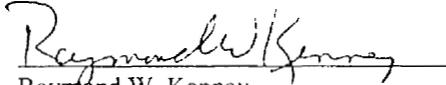
A Compliance Inspection Report for the referenced public drinking water system was sent to your attention on December 19, 2002.

Deficiencies were listed in the Report. The deficiencies were to be corrected as soon as possible and the Department was to be notified in writing or e-mailed at Raymond.Kenney@dep.state.fl.us of corrective actions completed, no later than January 31, 2003. For those deficiencies, which could not be corrected by that date, you were to submit a written request for a time extension that proposed specific deadlines to complete corrective actions.

To date the Department has received no response regarding the deficiencies. Please notify the Department in writing, postmarked no later than March 21, 2003 of corrective actions taken to correct the deficiencies.

If you have any questions, please contact me at the letterhead address, call 239-332-6975, extension 119 or e-mail me at Raymond.Kenney@dep.state.fl.us. Please include the system name and PWS I.D. number with all correspondence.

Sincerely,


Raymond W. Kenney
Engineer II

RWK
cc: Mr. Joseph M. Gueltzow

"More Protection, Less Process"

Printed on recycled paper

EXHIBIT ____ (LBB-20)

Index and Assorted Letters and Reports from the

Department of Environmental Protection

to Little Gasparilla Utility, Inc.

indicating a variety of non-compliance issues

from March 8, 1996 through February 17th, 2003.

Docket No. 020745-SU

EXHIBIT LBB-20

INDEX OF ASSORTED LETTERS AND REPORTS
BETWEEN THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND LITTLE GASPARILLA UTILITY, INC. [PRESIDENT, JOHN R. BOYER]
INDICATING A VARIETY OF NON-COMPLIANCE ISSUES
DATING FROM MARCH 8, 1996 THROUGH FEBRUARY 17, 2003

1. March 8, 1996: Non-compliance letter from Florida DEP re. bacteriological sampling following a malfunction
2. January 17th, 1997: Non-compliance letter from Florida DEP re. certified operating staffing requirement.
3. February 14th, 1997: Letter from Florida DEP re. discrepancies on MOR submission.
4. March 14th, 1997: Letter from Florida DEP re. incomplete MOR submission.
5. March 20th, 1997: Non-compliance letter from Florida DEP re. accurate and timely reporting of bacteriological analyses reports.
6. April 30th, 1997: Non-compliance letter from Florida DEP re. collection of “follow-up” bacteriological samples.
7. May 20th, 1997: Letter from Florida DEP re. collection analysis outside the laboratory’s acceptable holding time.

8. August 19th, 1997: Florida DEP warning letter [minimum water pressure not maintained for one week]
9. February 9th, 1998: Florida DEP letter re. excessive MCLs for Chloride and TDS.
10. March 4th, 1998: Letter from Gueltzow Utilities to Florida DEP re. excessive MCLs for Chloride and TDS and solutions.
11. January 13th, 1999: Warning Letter from Florida DEP re. unreported service interruption.
12. February 9th, 1999: Letter from Florida DEP re. no response to warning letter re. unreported service interruption.
13. March 1st, 1999: Memo from Louis LeMaire re. breakdown of high pressure pump.
14. March 5th, 1999: Warning Letter from Florida DEP re. samples collected at improper location
15. March 29th, 1999: Memo from Louis LeMaire re. high pressure pump problems
16. January 2nd, 2001: Letter from Florida DEP re. Deficiencies in Compliance Inspection Report
17. Waster Treatment Plant Compliance Inspection Report of December 21st, 2000
18. February 13th, 2001: Letter from Florida DEP re. untimely submittal of analyses results
19. September 19th, 2001: Letter from Florida DEP re. water plant outage.



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

March 8, 1996

John R. Boyer
Seaside/Little Gasparilla Utilities, Inc.
P.O. Box 5145
Grove City, FL 34224

RE: Charlotte County - PW
Little Gasparilla Utility, Inc.
Drinking Water System
PWS ID Number 5080175

Dear Mr. Boyer:

Thank you for your phone call on March 4, 1996. Effective immediately, Mr. Louis LeMaire of our office will be the primary person to conduct inspections of your drinking water system.

It is the Department's intention to cultivate public/private partnerships for the public good. As such, we are obligated to point out perceived problems so that utilities can address them.

Water utilities are required by law to notify the Department, within 24 hours, of malfunctions, main breaks, abnormal tastes or odor, or other suspicious circumstances, etc. Little Gasparilla apparently did experience a malfunction on February 29, 1996, resulting in an interruption in service. Although you claim to have notified the Department, to the best recollection of everybody here, Little Gasparilla did not notify the Department. In the future, to avoid any misunderstandings, I recommend that all notifications be followed up by a fax or mail hardcopy.

It is critically important that bacteriological sampling following a malfunction be conducted immediately. Waiting five days is not acceptable. If you need a list of laboratories that accept samples on short notice, please ask.

If you have any questions regarding this letter, please feel free to contact me at (941) 332-6975.

Sincerely,

Gary A. Maier
Professional Engineer

GAM/gm



Department of
Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

January 17, 1997

Mr. Jack Boyer, President
Little Gasparilla Utility, Inc.
P.O. Box 5145
Grove City, FL 34224

Re: Charlotte County - PW
Little Gasparilla Utility, Inc.
Water Treatment Plant
PWS I.D. Number 5080175
System Classification

Dear Mr. Boyer:

Thank you for communicating to the DEP by phone on January 7, 1997, that Little Gasparilla Utility, Inc., has not yet met the operator staffing requirement for the drinking water treatment plant required by Chapter 62-699, F.A.C.

Little Gasparilla Utility must immediately provide a Class C or higher certified operator: one hour per day for five days per week, and one visit on each weekend day.

Please confirm in writing, postmarked not later than January 31, 1997, that Little Gasparilla Utility has returned to compliance regarding the operator coverage requirement. We will need the name and certification number of your operator.

This letter is the DEP's final effort to remedy this non compliance issue prior to initiating appropriate enforcement action. If you have any questions, please call me at (941) 332-6975.

Sincerely,

A handwritten signature in cursive script that reads "Gary A. Maier".

Gary A. Maier
Professional Engineer III

GAM/gm

cc: Robert L. Underwood, Registered Agent
Thomas W. Garrard



Department of **FILE** Environmental Protection

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

February 14, 1997

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility, Inc.
PWS I.D. Number: 5080175
MOR Discrepancies

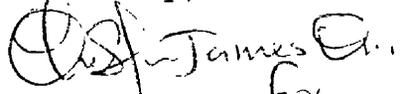
Dear Mr. Boyer:

A review of our records indicates a couple of discrepancies on the January Monthly Operating Report (MOR) submitted to the Department, which requires additional data inclusion for all future MORs. (copy enclosed)

Please ensure that the operator is informed that the correct category and class of this facility is IIC. In addition, please provide the certified operator the total population served at the end of each month. Please ensure that this data is included on all future MORs submitted to the Department, as required by Rule 62-555.900(3), F.A.C.

If you have any questions, please contact Mark Charneski at the letterhead address above or call 941-332-6975.

Sincerely,


Gary A. Maier for
Professional Engineer

GAM/MAC/mac

Enclosure

cc: Mr. Robert Underwood, Registered Agent (w/enclosure)



Department of Environmental Protection

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

March 14, 1997

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility, Inc.
PWS I.D. Number: 5080175
MOR Discrepancies

Dear Boyer:

A review of our records indicates that the Monthly Operating Report (MOR) submitted to the Department may be incomplete.

Please provide the population served and the plant category and class on the enclosed MOR and resubmit the completed MOR postmarked no later than March 31, 1997.

Please ensure that all future MOR's are complete before submission. **If you have any questions, please contact Mark Charneski at the letterhead address above or call 941-332-6975.**

Sincerely,

A handwritten signature in cursive script that reads "Gary A. Maier".

Gary A. Maier
Professional Engineer

GAM/MAC/klm

Enclosure

cc: Mr. Robert Underwood, Registered Agent



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

March 20, 1997

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility Inc.
PWS I.D. Number: 5080175
Bacteriological Sampling

Dear Mr. Boyer:

The Department is in receipt of the drinking water bacteriological analyses reports for the compliance samples collected on February 5, 1997, and the repeat samples collected on February 13, 1997 (copies enclosed). The February 5, 1997, (revised) report indicates that total and fecal coliform bacteria were present in the samples collected at the Well, and the Men's Restroom (North Dist.) locations. The Department was not aware of these unsatisfactory bacteriological results until March 18, 1997.

These fecal coliform-positive sample results, should have been reported to the Department within **24 hours** of notification of the analyses results. In accordance with Rule 62-550.518, Florida Administrative Code (F.A.C.), if **fecal coliform** or E. Coli bacteria are found to be present in any routine or repeat sample, the system shall notify the Department by the end of the day when the system is notified of the test result, or by the end of the next business day, at the latest.

In order to protect the public health and to ensure that repeat sampling is performed in a timely manner, you may wish to consult with your certified laboratory to ensure that you/your operating company are promptly notified of total, or fecal coliform-positive drinking water sample results, in accordance with the Safe Drinking Water Testing and Laboratory Certification requirements of 10D-41.059 (copies enclosed).

You may also wish to advise your certified laboratory of the importance of accurately reporting analytical results to the Department. For example, on March 10, 1997, the Department received one copy of the laboratory report for the compliance bacteriological samples collected on February 5, 1997, which indicated the ABSENCE of total/fecal coliform bacteria in all

Continued . . .

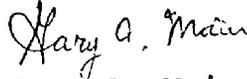
Mr. Jack Boyer
March 20, 1997
Page 2

three of the samples collected. On March 18, 1997, the Department was faxed a revised copy of of the February 5, 1997, bacteriological sample results, which indicated the **PRESENCE** of total and fecal coliform bacteria in the raw water and the North distribution samples. Reporting inaccurate data to the Department can severely diminish the Department's ability to make sound decisions with respect to public health protection. Please ensure that all analytical results reported to the Department are accurate, in accordance with Rule 62-550.730, F.A.C. and Chapter 10D-41.060.

Finally, please remember to collect at least 5 "follow-up" distribution samples in the month of March-1997 since Rule 62-550.518, F.A.C., requires a public water system to collect at least 5 distribution samples during the month following a total coliform-positive distribution sample.

If you have any questions please contact Patty Baron at the letterhead address, or call 941-332-6975.

Sincerely,



Gary A. Maier
Professional Engineer

GAM/PB/klm
Enclosure

cc: Mr. Robert Underwood, Registered Agent (w/enclosures)
Mr. Kyle James (w/enclosures)
Mr. Allen Slater (w/enclosures)
Dr. Carl Kircher-water certification program (w/enclosures)
Benchmark Analytical Laboratories, Inc. (w/enclosures)



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

April 30, 1997

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility, Inc.
PWS I.D. Number: 5080175
Bacteriological Sampling

Dear Mr. Boyer:

Our records indicate that a sufficient number of "follow-up" bacteriological samples may not have been collected during the month of March-1997, for the above-referenced public drinking water system.

Rule 62-550.518, Florida Administrative Code, requires a public water system to collect no fewer than 5 "follow-up" bacteriological distribution samples during the month following a Total Coliform positive distribution sample. **Since the laboratory analysis for the bacteriological distribution sample collected at the Men's restroom (Placidia Pool) location on February 5, 1997, indicated the presence of Total and Fecal Coliform bacteria, a minimum of 5 distribution samples should have been collected by the water system during the month of March-1997.**

Our records indicate that two bacteriological distribution samples were collected on March 5, 1997. If any additional bacteriological distribution samples were collected during the month of March-1997, please submit a copy of the analyses results to the Department postmarked no later than **MAY 9, 1997**. If fewer than five bacteriological distribution samples were collected and analyzed during the month of March-1997, the violation will remain on record.

If you have any questions, please contact Patty Baron at the letterhead address or call 941-332-6975.

Sincerely,

Gary A. Maier
Professional Engineer

GAM/PB/klm
cc: Mr. Robert Underwood, Registered Agent
Mr. Allen Slater
Mr. Kyle James
Mark Charneski-Enforcement Section



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881
May 20, 1997

Virginia B. Wetherell
Secretary

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla WTP
PWS I.D. Number: 5080175
(Some) Pesticides & PCBs AND Dicamba
Exceeded Holding Times

Dear Mr. Boyer:

The Department is in receipt of the analyses results for the first quarterly samples for the Group I Unregulated Organic Contaminants (UOCs) collected on March 25, and March 31, 1997, and the first quarterly samples for Pesticides and Polychlorinated Biphenyls (PCBs) collected on March 31, 1997, at the above-referenced public drinking water facility.

The laboratory report for both the March 25, and March 31, 1997, samples indicates that the Group I Unregulated contaminant of Dicamba may have been analyzed outside the laboratory's acceptable holding time. The laboratory report for the March 31, 1997, samples indicates that the following contaminants in the Pesticides & PCBs group may also have been analyzed outside the laboratory's acceptable holding time: Dalapon, Diquat, Endothall, Glyphosate, Di(2-ethylhexyl)adipate, Oxamyl, Di(2-ethylhexyl)phthalate, Picloram, Dinoseb, Hexachlorocyclopentadiene, Carbofuran, 2,4-D, 2,4,5-TP, Benzo(a)pyrene, Pentachlorophenol, Dibromochloropropane, and Ethylene Dibromide (see enclosure).

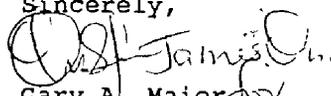
Please resample for the above-referenced contaminants **AS SOON AS POSSIBLE**, but no later than MAY 30, 1997. Please submit the analyses results to the Department (in approved drinking water format) postmarked no later than JUNE 30, 1997.

Please note that many of the contaminants in the Pesticide & PCB Group must undergo a process at the laboratory called extraction, prior to the actual analyses. It is the Department's understanding that in many cases, this extraction process must be performed by the certified laboratory **within 7 days of sample collection**. You may wish to consult with your certified laboratory performing the analyses, to ensure that all future samples are collected and analyzed within the laboratory's acceptable holding times.

Finally, please note that your Pesticides & PCBs waiver application cannot be approved until the Department has evaluated the sample results of one full set of monitoring for Pesticides & PCBs, Group I UOCs, Group II UOCs, and one current set of Nitrate and Nitrite results.

If you have any questions, please contact Patty Baron at the letterhead address above, or call 941-332-6975.

Sincerely,


Gary A. Maier
Professional Engineer

GAM/PB/dd
Enclosure

cc: Mr. Robert Underwood, Registered Agent

Mr. Allen Slater

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

063 118 351

Department of Environmental Protection **FILE**

Postal Service
Receipt for Certified Mail

Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to	JACK BOYER PRESIDENT
Street & Number	GASPARILLA UTIL I INC
Post Office, State, & ZIP Code	POST OFFICE BOX 5145
Postage	LOVE CITY \$FL 34224
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	MAC/k1m/ISK PW 7-25-97

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

August 19, 1997

063 118 351
TED

lity, Inc.

34224

Re: Charlotte County -PW
Little Gasparilla Utility, Inc.
PWS I.D. Number: 5080175

RTC
No Further enforcement
to be taken At this
time.
Mark

Dear Mr. Boyer:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. The results from recent surveillance activity and a review of your Drinking Water system records indicates that a violation of Florida Statutes and Rules may exist at the above described facility.

The activities at your facility that may be contributing to the specified violations of the described statutes or rules should be corrected immediately.

Florida Administrative Code Rule 62-555.320(7), requires that high service pumping and distribution facilities shall be designed to provide maximum hourly demand without either development of a distribution pressure lower than 20 psi or other health hazards.

Recently the Department installed an automated water pressure recording device on the distribution system of the referenced facility for a one week period covering the fourth of July holiday weekend. The resulting pressure recording chart indicated that you may not have maintained the minimum water pressure of 20 psig on July 4th, 5th, and 6th, 1997, during periods of maximum demand.

You are requested to attend a meeting with the Drinking Water Staff at the Department's South District Office located at 2295 Victoria Avenue, Fort Myers, Florida 33901 on September 8, 1997 at 10:00 AM to discuss the issues raised in this Warning Notice. If you have any questions regarding this letter or need to reschedule the meeting, please contact Mark Charneski at 941-332-6975.

Continued.....

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

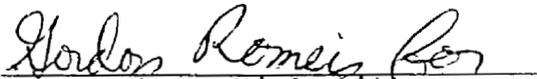
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PS Form 3800, April 1995

The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,


Margaret F. Highsmith
District Director

MFH/MAC/klm

cc: Mr. Robert Underwood, Registered Agent



Department of **FILE**
Environmental Protection

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

February 9, 1998

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility WTP
PWS I.D. Number: 5080175
Collect Repeat Samples
for Chloride and TDS

Dear Mr. Boyer:

The laboratory analyses results for the Secondary Contaminants samples collected on December 30, 1997, at the above-referenced public drinking water facility indicate that the Maximum Contaminant Levels (MCLs) for the contaminants of Chloride, and Total Dissolved Solids (TDS), may have been exceeded. The laboratory analyses indicate the concentration of Chloride as 337 milligrams per Liter (mg/L), and the TDS concentration as 614 mg/L. Rule 62-550, Florida Administrative Code, identifies the MCL for Chloride as 250 mg/L and the TDS MCL as 500 mg/L.

In order to confirm these concentrations, please collect a repeat sample for both Chloride, and TDS no later than **FEBRUARY 23, 1998**. Please submit a copy of the laboratory analyses results to the Department postmarked no later than **MARCH 2, 1998**.

Compliance with the Maximum Contaminant Levels for Chloride, and TDS, may be determined by averaging each of the repeat analyses results with the analyses results of each of the original samples.

Please be advised that **IF** the Department verifies that an MCL exceedance has occurred, corrective action may be required.

If you have any questions, please contact Patty Baron at the letterhead address, or call (941) 332-6975.

Sincerely,

Gary A. Maier
Professional Engineer

GAM/PB/klm
cc: Mr. Robert Underwood, Registered Agent

GUELTZOW UTILITIES

P. O. Box 20104
Bradenton, FL 34204
(941) 359-1870

March 4, 1998

Department of Environmental Protection
Attn: Mr. Gary Maier
Southwest District
2295 Victoria Avenue
Ft. Myers, FL 33901

Re: Little Gasparilla Utility
PWS I.D. # 5080175

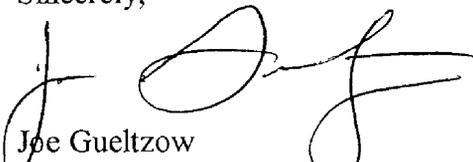
Dear Mr. Maier:

This letter is in reference to our telephone conversation on March 3, 1998 regarding the Little Gasparilla Utility water system. The chloride reading for the resample on February 25 exceeded the MCL by one part per million. We took a three-part approach to this problem.

- 1.) Determine the cause of the problem. We recently installed individual sample taps on the two pressure vessels. We found that the south vessel's product to be almost twice as the north vessel. (South vessel 280 PPM TDS, north vessel 460 PPM TDS)
- 2.) Correct the problem. We pulled the south pressure vessel apart to inspect the membranes. By doing this we found a bad O-ring. The O-ring was replaced. The product TDS of the south pressure vessel came down from a TDS of 460 PPM to 360 PPM.
- 3.) Resample to verify corrective action. We resampled for chloride on March 2, 1998 and will send you the results as soon as we receive them.

If you should have any questions, please contact me.

Sincerely,



Joe Gueltzow
GUELTZOW UTILITIES

cc: Jack Boyer, Little Gasparilla Utility



Department of Environmental Protection

FILE

Jeb Bush
~~XXXXXXXXXX~~
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Kirby Green, III
~~XXXXXXXXXX~~
Secretary

January 13, 1999

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility, Inc.
PWS I.D. Number: 5080175
Unreported Service Interruption

Dear Mr. Boyer:

This letter is in response to a recent phone conversation on January 11, 1999, between Mr. Louis LeMaire of this office and Kathy Batsil concerning an unreported service interruption at the referenced public water system. In response to this incident the Department requires that additional information be provided. Please provide the following information to the Department in writing postmarked no later than January 30, 1999:

- * Description of the problem.
- * Cause of the problem.
- * Period of noncompliance, including dates and times.
- * Steps taken to correct the problem.
- * Steps taken to prevent its recurrence.
- * Steps taken to protect public health.

As this incident revealed, one requirement of the Florida Safe Drinking Water Act (FSDWA) that is often overlooked by water purveyors is the requirement to notify the DEP when there is an interruption in service. Rule 62-555.350(3), F.A.C., requires such notification within 24 hours. Enclosed are two forms that you may find useful in fulfilling your obligation under this rule.

Another related requirement of the FSDWA that is often overlooked is specified in Rule 62-555 340, F.A.C. After an interruption in service, that rule requires the water purveyor to obtain approval from the DEP prior to resuming service. On a practical level, we understand that application of this rule is problematic because you need to restore service as soon as possible to minimize the time customers are out of water. It may not be practical to wait for DEP approval.

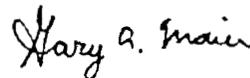
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In order to avoid violating Rule 62-555.340, F.A.C., some form of prior approval from DEP, with mutually agreeable conditions, seems essential. Effective immediately, for water purveyors in the South District of the DEP, the South District Office hereby grants prior conditional approval to resume service after a future interruption in service. In order to take advantage of this prior conditional approval, you will need to comply with all six of the following conditions:

1. Immediately issue a precautionary notice to all affected customers advising them to boil the water or use bottled water for drinking and cooking.
2. Notify the South District Office of the DEP by telephone or fax within 24 hours of the break. (telephone 941/332-6975, fax 941/332-6969).
3. Notify the local County Public Health Unit by telephone or fax within 24 hours of the break.
4. If applicable, disinfect the water main in accordance with the latest American Water Works Association Standard.
5. Collect and analyze at least one bacteriological sample downstream of the main break, and at least one from each branch downstream of the main break. In case of extremely long mains, it is desirable that samples be collected along the length of the main as well. If the interruption in service was not caused by a main break, then do bacteriological sampling at your normal compliance locations. If all of the sample results show the absence of coliform organisms, then the precautionary boil water notice can be lifted. If any sample results show the presence of coliform organisms, then continue the precautionary boil water notice and conduct daily sampling until two consecutive daily samples show the absence of coliform organisms.
6. Submit all bacteriological sample results to the South District Office of the DEP as soon as possible.

If the above conditions are unacceptable to your organization, we would be happy to meet with you to discuss your ideas for revision. If you have any questions, or wish to schedule such a meeting, please contact me at (941) 332-6975.

Sincerely,



Gary Maier
Professional Engineer III

GAM/mac



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

February 9, 1999

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility, Inc.
PWS I.D. Number: 5080175
Unreported Service Interruption

Dear Mr. Boyer:

This is a follow up to our correspondence of January 13, 1999 (copy enclosed) in which you were requested to provide the Department with a written response concerning the unreported service interruption.

As of this date, the Department has not received your response. Please submit a written response, including each of the items specified on our previous letter, to this office postmarked no later than February 23, 1999.

In order to avoid a potentially serious non-compliance situation, please ensure that you respond to this letter in a timely manner. If you have any questions, please contact Gary Maier at the letterhead address or call 941-332-6975.

Sincerely,

Gary Maier
Professional Engineer III

GAM/mac
Enclosure

3/1/99 4:47:04 PM
Louis LeMaire FTM
ct: Little Gasparilla
See Below

Received a call from Jack Boyer @ 10:00 am today. He informed us that he had a breakdown of his Hi Pressure pump to the RO units. Apparently, he changed the oil on 2/28/99, and left it with a leak, on 3/1/99, all the oil drained out and the pump "fried."

He was in the process of taking the pump apart to determine the damage, and he was also in contact with the pump manufacturer. He estimated to be out of water within 24 hrs. He suggested 2 options,

- 1) within 24 hrs he could hook up to the line from Aqua Source, to the State Park.
- 2) bypass the WTP and put salt water into the system for flushing etc.
- 3) we suggested bringing water in by barge, he said it could not be done.

He said that the litigation with State Parks was over, and he could leave the line in, for emergency purposes only, but he was not to hook up without Permits!!

He called again at 11:00am and said that the company did not have a pump they could overnight.

I called Aqua Source, and talked to Hugh Sumrall. He confirmed that Gary Littlestar and Jack Boyer had agreed to an emergency tie in, however, Aqua Source had not discussed this tie in. Hugh did confirm, that he would never turn anyone down in case of emergency. If Jack did tie in on an emergency, he had to contact a) Bill Landers (chief operator); b) put in a meter; c) notify the office.

At 11:45, Gary M., James Oni, Mark C. and myself had a teleconference with Jack. Gary said that he could never authorize construction without a permit, (only the Governor has that authority,)but he could stop any enforcement in case of an emergency.

I called Jeff Gilcher and he called Jack to help him out. Mark asked Dave H. of FRWA, to contact Jack to see if he could help him out.

Bottom line!!

1. Jack is to try to get the pump up and running
2. If he cannot, he will hook up app. 8000' of potable water line from the State Park to his system. If this is done, he was notified that he must send out a "boil water notice," do Bactis and notify the DOH (Bob Vincent).

Lou

To: Gary Maier FTM
To: Patty Baron FTM
To: Mark Charneski FTM
To: James Oni FTM
To: Mary Havener FTM
To: Sandra Weinberg FTM



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

March 5, 1999

Jack Boyer, President
Little Gasparilla Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utilities WTP
PWS I.D. Number: 5080175
1998 Nitrate and Nitrite Report

Dear Mr. Boyer :

A review of the laboratory analyses report for the Nitrate, and Nitrite samples collected on November 19, 1998, at the above-referenced public drinking water plant, indicates that the samples may have been collected at an improper location.

The laboratory report for the Nitrate, and Nitrite samples collected on November 19, 1998, indicates that the samples were collected from the Raw water sampling taps at each of the wells. Under the general monitoring requirements identified in Rule 62-550.500, Florida Administrative Code, the proper sampling point for collecting a Nitrate, or Nitrite sample, should be the point-of-entry to the distribution system.

Although the November 19, 1998, Nitrate and Nitrite samples may not have been collected at the proper sampling location, the Department shall still accept these results, one time only. However, please ensure that your 1999 Nitrate, and Nitrite samples are collected from the point-of-entry to the distribution system.

Thank-you in advance, for your cooperation in this matter. If you have any questions, please contact Patty Baron at the letterhead address above, or call (941) 332-6975 extension 128.

Sincerely,

Gary A. Maier
Professional Engineer

GAM/PB/klm

cc: Mr. Robert Underwood, Registered Agent
Joseph M. Gueltzow

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

INTEROFFICE MEMORANDUM

Sensitivity: COMPANY CONFIDENTIAL

Date: 29-Mar-1999 10:16am
From: Louis LeMaire FTM
LEMAIRE_L
Dept: South District Office
Tel No: 941/332-6975

To: Gary Maier FTM (MAIER_G)
To: Patty Baron FTM (BARON_P)
To: Mark Charneski FTM (CHARNESKI_M)
To: James Oni FTM (ONI_J)
To: Sandra Weinberg FTM (WEINBERG_S)

Subject: Little Gasparilla

Latest update! (Joe Gueltzow)
- 3/26/99 feed well pump not working, Hi service pump requires 2 wells to feed it
- maintained 20 psi, but tanks low
- 3/26/99 fixed feed pump, but leak in Hi pressure pump, not much water left
- 3/26/99 (Jack Boyer, 3:34 pm), secured water distribution, 1 1/2 ft left in each tank, waiting for metal repair to harden
- informed to boil water and ration water
- took Bactis
3/29/99 (Joe Gueltzow) Feed well pump problem and Hi pressure problems corrected and making water
- has a maintenance person shutting water off at midnight, on at 6:00am, taking Bactis daily
- I called Bob Vincent to inform him, then finally talked to Joe and asked him to call Bob Vincent as well
- they are making water, but the Easter weeks are the busiest 2 weeks of the year, and they are not sure they can make enough water

Apparently, Jack has someone negotiating for him to sell his plant to Aqua Source!!

Lou



Jeb Bush
Governor

Department of Environmental Protection **FILE**

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

January 2, 2001

Jack Boyer, President
Little Gasparilla Water Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility, Inc.
PWS I.D. Number: 5080175
Compliance Inspection Report

Dear Mr. Boyer:

Enclosed is your copy of the recently completed Compliance Inspection Report for the referenced public drinking water system.

The deficiencies listed in the Report may be violations of Rules 62-550 and 62-555, F.A.C. Please continue your corrective action plan with the submitted permit application to correct some of the deficiencies. Notify the Department in writing of corrective actions completed, postmarked no later than April 1, 2001. For those deficiencies which cannot be corrected by that date, please submit a written request for a time extension that proposes specific deadlines to complete corrective actions.

Recommendations are included in the Report. Recommendations are not requirements of State law, they are provided as guidelines towards optimizing water treatment plant operation.

If you have any questions, please contact me at the letterhead address or call 941-332-6975, extension 119. Please include the system name and PWS I.D. number with all correspondence.

Sincerely,

Louis P. LeMaire
Engineer IV

LPL/klm
Enclosures

cc: Mr. Robert Underwood, Registered Agent
Joseph M. Gueltzow

"More Protection, Less Process"

WATER TREATMENT PLANT COMPLIANCE INSPECTION REPORT

Plant name: Little Gasparilla Utility, Inc. County: Charlotte PWS: 5080175
Address: On Little Gasparilla Island
Phone: (941)697-6227

Owner name: Jack Boyer, President
Address: Little Gasparilla Water Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224
Phone: (941)697-8141
Contact: Joe Gueltzow

This inspection date: December 21, 2000 Last C.I. date: October 29, 1999
Last sanitary survey date: March 26, 1998
PWS Type: X Community

Service area characteristics: Residential Community
No. of service connections: 250
Served population: 500

OPERATION & MAINTENANCE

Certified operator: X Yes 0 No 0 N/A
Required Coverage is: 1 hr/day, 5 days/wk, visit each weekend day
Operator & certification class-number: Joe Gueltzow "C" 6144
O&M log: X yes 0 no
Condition of Plant? Poor

WELLS:

Number of wells: 2
6' x 6' x 4" pad X yes 0 no
Sanitary seal X OK 0 no
Raw water tap: X yes 0 no
0 not smooth nosed
Check valve X yes 0 no
Fence/housing X yes 0 no
Sanitary Hazards 0 yes X no
Auxiliary power X yes 0 no
Tested weekly? X yes 0 no
Monthly? X yes 0 no

DESIGN CAPACITY: 0.036 mgd
STORAGE CAPACITY: 0.146 mg

CHLORINATION

Chlorinator type: 0 Gas X Hypo
Cl₂ residual: Plant: 0.5 mg/l
Remote: 0.6 mg/l
Location: Flushing point
Gas cylinder scale..... 0 yes 0 no
Gas cylinder chained..... 0 yes 0 no
Adequate air-pak..... 0 yes 0 no
Adequate ventilation..... 0 yes 0 no
Dual chlorination..... 0 yes 0 no
Auto-switchover..... 0 yes 0 no
Alarm 0 yes 0 no

PRESSURE: Plant: 57 psi
 Remote: 48 psi

AERATION: Yes Type: Degassifier Condition: OK

OTHER TREATMENT PROCESSES: Reverse Osmosis; Flocon AF 600; Sulfuric Acid;
 Lime (pH Adjustment)

OTHER

Flow measuring device: X meter
 Backflow prevention devices: X yes 0 no
 Cross-connections observed? 0 yes X no

(G) Ground (C) Clearwell (E) Elevated
 (B) Bladder (H) Hydropneumatic/flow-through

Tank type	G	G		
Capacity	0.146 mg	0.012 mg		
Gravity drain	N	N (Sump)		
By-pass piping	N	Y		
Pressure gauge	N/A	N/A		
On/Off pressure	"	"		
Sight glass	"	"		
Fittings for sight glass	"	"		
Air release valve	"	"		
Pressure relief valve	"	"		
Access padlocked	Y	"		

DEFICIENCIES:

1. Poor well maintenance, unsafe electrical wiring, leaks - Improve maintenance of wells and repair or replace wiring to conform with local electrical code.
2. The overall condition of the WTP requires maintenance (see attached photos) - Implement a preventive maintenance program. "The supplier of water shall maintain in good condition all equipment," Rule F.A.C. 62-555.350(1).

RECOMMENDATIONS:

1. American Water Works Association (AWWA) D101-53 (R1979) states "all water tanks should be thoroughly inspected at intervals of not more than five (5) years," and cleaned, painted or repaired if required.

Inspector: Louis LeMaire Title Engineer III Date 1/2/01
 Reviewed by James Oni Title P.E. III Date 1/2/01



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

February 13, 2001

Jack Boyer, President
Little Gasparilla Water Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Utility WTP
PWS I.D. Number: 6080175
Year 2000 Chemical Sample Results Overdue

Dear Mr. Boyer:

Our records indicate that the Department has not yet received the laboratory analyses results for the samples of the following contaminants/contaminant groups which were to have been collected at the above-referenced public drinking water system sometime during the calendar year 2000: Primary Inorganic Contaminants, Secondary Contaminants, Volatile Organic Contaminants (VOCs), Pesticides & Polychlorinated Biphenyls (PCBs), and Radiological contaminants.

Although a chain-of-custody has been submitted to the Department indicating that the above-referenced chemical compliance samples were collected on December 12, 2000, to date, the analyses results have not been submitted. Please submit a copy of the analyses results to this office (in approved drinking water format), postmarked no later than **FEBRUARY 21, 2001**.

Please note, Rule 62-550.730, Florida Administrative Code, requires sample results to be submitted to the Department no later than 10 days following the end of the required monitoring period. Therefore, the laboratory results for the contaminants/contaminant groups identified in paragraph one of this correspondence, which were required to have been collected by the end of the year 2000, should have been submitted to the Department by January 10, 2001, *at the latest*. The Department respectfully requests that future compliance sampling be performed earlier in each appropriate compliance period, in order to allow the laboratory sufficient time to perform the analyses and generate the necessary reports for the subsequent timely submittal of these reports to the Department.

Please be advised that in the future, the untimely submittal of drinking water chemical analyses results to the Department will result in enforcement action.

If you have any questions regarding this correspondence, please contact Patty Baron at the letterhead address above, or call (941) 332-6975 extension 171.

Sincerely,

O. James Oni
Professional Engineer
Water Resource Management

OJO/PB/km

cc: Mr. Robert Underwood, Registered Agent
Joseph M. Gueltzow

"More Protection, Less Process"



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

September 19, 2001

Jack Boyer, President
Little Gasparilla Water Utility, Inc.
Post Office Box 5145
Grove City, Florida 34224

Re: Charlotte County - PW
Little Gasparilla Water Utility, Inc.
PWS I.D. Number: 6080175

Dear Mr. Boyer:

This is a follow up to our phone conversations concerning Tropical Storm Gabrielle and your water plant outage. Please note that Florida Administrative Code Rule 62-555.350 requires that in case of a breakdown in purification or protective works, a break in a main transmission line causing a major interruption in service, or any suspicious circumstance, abnormal taste, or abnormal odor occurring in connection with a public water supply, the person responsible for the operation of the works or the treatment plant operator shall notify the Department or the Approved County Public Health Unit, if applicable, by wire or telephone within 24 hours of the occurrence. The Department shall notify the appropriate local public health unit(s), or the Approved County Public Health Unit shall notify the Department.

Please ensure that in the future the Department is notified in a timely manner as required. Please note that you may leave a message on our phone system at 941-332-6975, if you need to call on the weekend to meet this 24 hour deadline. You may also send a FAX to 941-332-6969 24 hours a day.

Enclosed is a form which may aid you in this notification process. Use of the form is not mandatory, but notification within 24 hours is required. Please note that failure to provide the 24 hour notification in the future will result in enforcement action by the Department. If you have any questions, please contact me at the letterhead address or call 941-332-6975, extension 135, or by e-mail at mark.charneski@dep.state.fl.us.

Sincerely,

Mark Charneski
Environmental Specialist III

MAC
Enclosure
cc: Mr. Joe Gueltzow
Mr. Robert Vincent

"More Protection, Less Process"

EXHIBIT ____ (LBB-21)

**Offense Incident Report Narrative, Maps
and Case Update Florida Park Patrol Case # 96 J29 0153**

OFFENSE INCIDENT REPORT NARRATIVE CONTINUATION REPORT # 96-029-0153

ON 04/29/96 I, OFFICER SCOTT MEDLOCK OF THE FLORIDA PARK PATROL, ALONG WITH OFFICER ANDREW COLELLI OF THE FLORIDA PARK PATROL, MET WITH GERALD NORMAN AND RICHARD STORBERG ABOUT AN ILLEGAL WATER PIPE INSTALLED ON DON PEDRO ISLAND STATE RECREATION AREA.

R. STORBERG, PARK RANGER AT BARRIER ISLANDS GEO PARK, TOLD US THAT, ON 02/07/96, HE RETURNED TO WORK AFTER TWO REGULAR DAYS OFF. ON 02/07/96 NOTICED THAT A DITCH HAD BEEN DUG ACROSS A 1/2 MILE EXpanse OF DON PEDRO ISLAND STATE RECREATION AREA. R. STORBERG SAID THAT NONE OF THE UTILITY COMPANIES KNEW ABOUT IT. R. STORBERG TOLD US THAT HE HEARD GOSPID THAT A WATER PIPE HAD BEEN LAID BY JACK BOYER OF LITTLE GASPARILLA WATER AUTHORITY, INC. R. STORBERG SAID THAT HE WENT BACK TO DON PEDRO ISLAND SPA AND DUG UP SEVERAL FEET IN THE DITCH. R. STORBERG SAID THAT HE FOUND A WATER PIPE INSTALLED IN THE DITCH. HE THEN CALLED PARK MANAGER R. NORMAN.

R. NORMAN TOLD US THAT HE CAME OUT AND TOOK PICTURES OF THE PIPE. IT WAS A 2" BLUE PIPE THAT HAD BEEN CONNECTED INTO THE PARK WATERLINE. AN UNAUTHORIZED METER AND HOOK WERE ALSO INSTALLED. R. NORMAN SAID THAT HE MADE CONTACT WITH JACK BOYER, AND J. BOYER ADMITTED TO HIM THAT HE HAD COME OUT TO THE PARK WHEN HE KNEW R. STORBERG WOULD NOT BE WORKING, AND INSTALLED THE PIPE. R. NORMAN TOLD US THAT J. BOYER ALSO REFUSED TO REMOVE THE PIPE. R. NORMAN SAID THAT HE SENT J. BOYER A CERTIFIED LETTER DEMANDING

Officer(s) Reporting (please print) GERALD SCOTT MEDLOCK #029		Officer's Signature <i>Gerald Scott Medlock</i>	Date 4-29-96
Reviewed By:		Reviewer's Signature	Date
Citation Number 183719A & 183720A	Number Arrested	OBTS Number	Original Supplement <input checked="" type="checkbox"/> <input type="checkbox"/>

REPORT NARRATIVE CONTINUATION REPORT # 96-529-0153

THIS REPORT IS WRITTEN BY ME, OFFICER SCOTT MEDLOCK OF THE FLORIDA PARK PATROL, TO UPDATE AND SUPPLEMENT INFORMATION ABOUT JACK BOYER AND DON PEDRO ISLAND SRA.

ON 11/06/96 CHARLOTTE COUNTY STATE ATTORNEY'S OFFICE UPDATED ME ON THE CASE AGAINST J. BOYER. BOND WAS SET AT \$2000.00 BY THE CHARLOTTE COUNTY JAIL. J. BOYER POSTED BAIL. HE WAS ARRANGED ON 10/21/96. HE PLEAD NOT GUILTY. DOCKET SOUNDING FOR J. BOYER WILL BE ON 12/20/96. TRIAL DATE IS SET FOR SOME TIME IN JANUARY OF 1997. PROSECUTING ATTORNEY IS RUSSEL KERSHY.

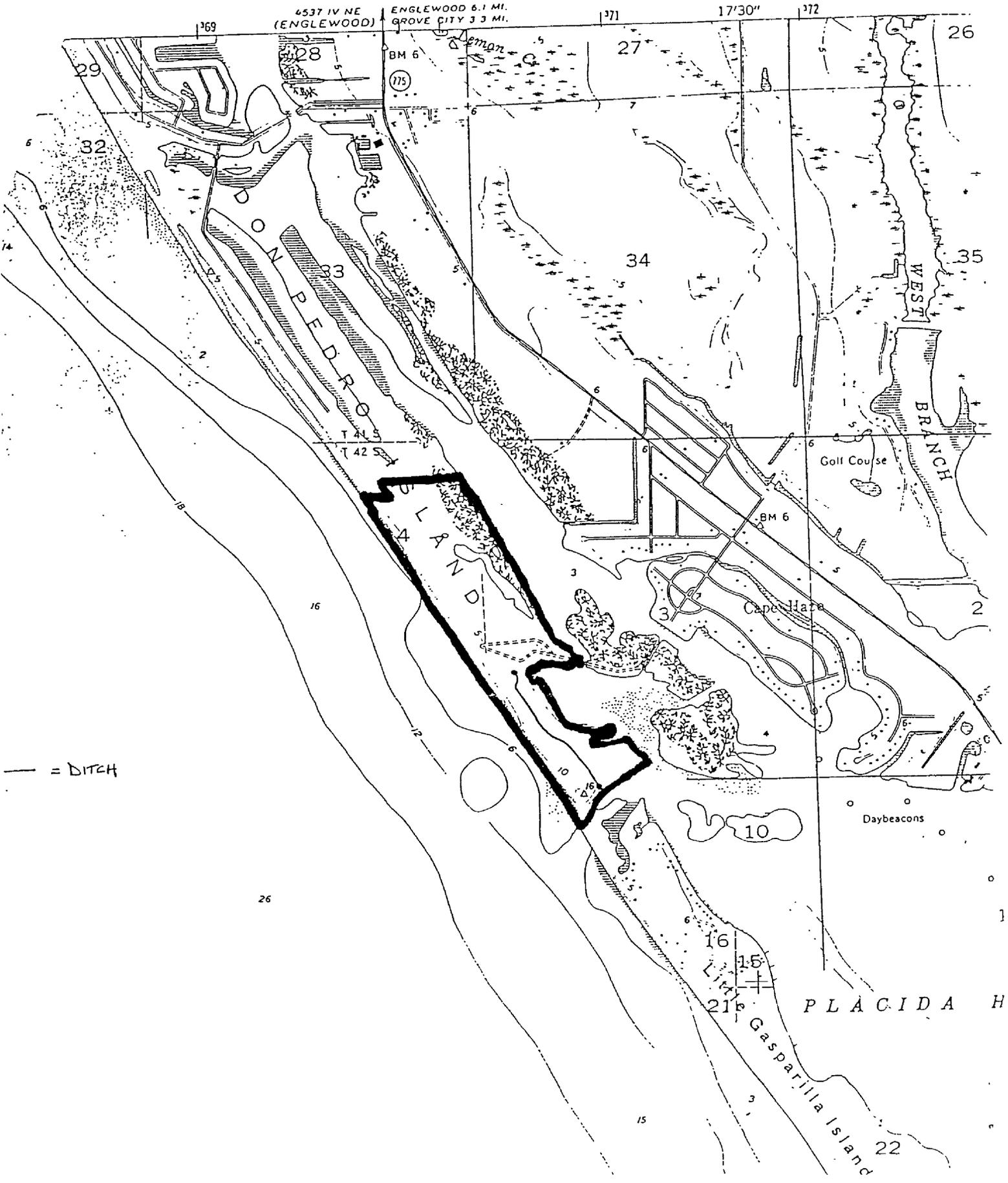
RECEIVED
11/11/96
TO DEP INV
SQUAD

NARRATIVE

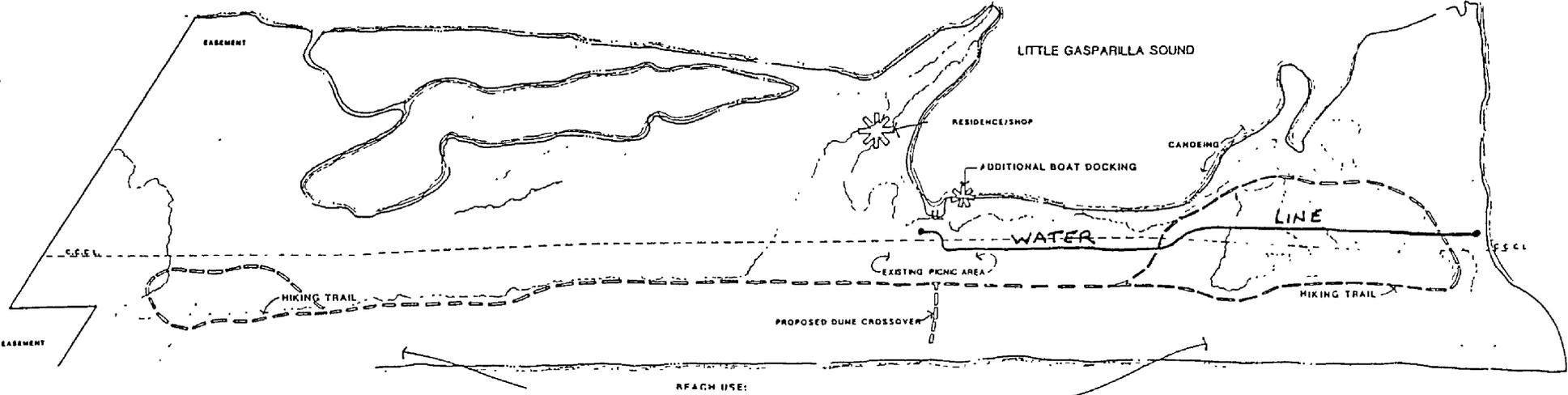
ADMINISTRATIVE	Officer(a) Reporting (please print) GERALD SCOTT MEDLOCK #229		Officer's Signature <i>Gerald Scott</i>	Date 11/06/96
	Reviewed By: CAPT. CARL NIELSEN I73		Reviewer's Signature <i>Carl Nielsen</i>	Date 11/6/96
	Citation Number 183730A	Number Arrested	OBTS Number	Original Supplement <input checked="" type="checkbox"/>

A

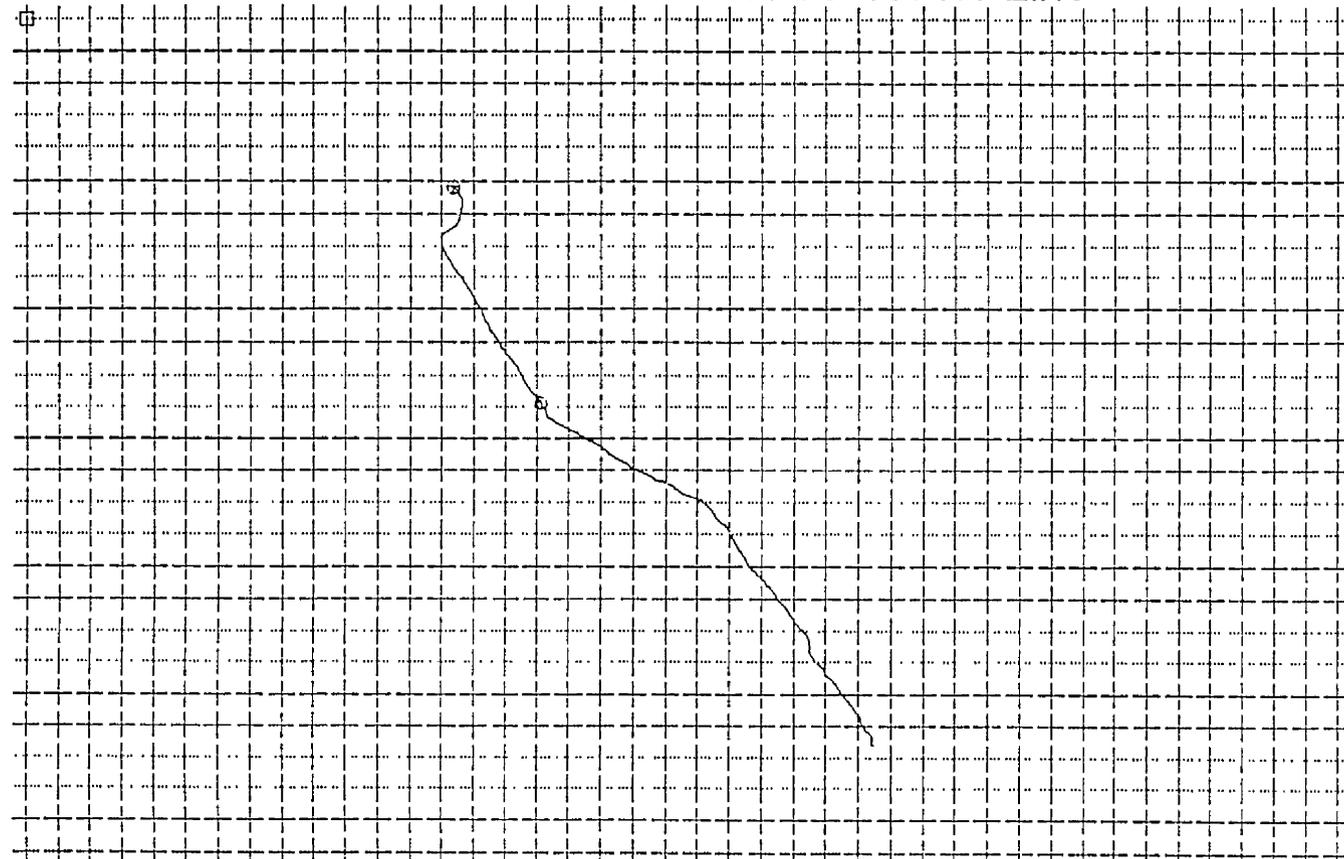
T425 R20E S3,4,10



DPISRA



Don Pedro Island SRA- Water Line



WGS84
Universal Transverse Mercator

C:\PF\PRODATA\TOM\DRISRA\DPISRA.SSF
Tick Interval - 100 Feet
Master Tick Position - 9745200 1214400

CASE UPDATE FMP

96 3B 5154

093096

FLORIDA PARK PATROL

CASE # 96 J29 0153

093096

Charlotte County State Attorney filed information with Charlotte County's Circuit Court on August 01, 1996 indicting Jack Boyer for:

1. Criminal Mischief - \$1000.00 or More - Felony {FSS 806.13}.
2. Trespass/Larceny with relation to utility - 1st Degree Misdemeanor {FSS 812.14(2)(c)}

On or about August 06, 1996 Charlotte County Sheriff's Office attempted to serve said warrant of indictment to Jack Boyer. The state attorney's office further advised that as of today said warrant had not been served.

100196

Jack Boyer's Attorney called the state attorney today at approximately 0830 hours and advised that Boyer would turn himself in at Charlotte County Sheriff's Office later today. As soon as the plea date is set I will advise further.

****Note:**

Charlotte County Assistant State Attorney Mark T. Morris combined the original six charges filed to the two listed above.

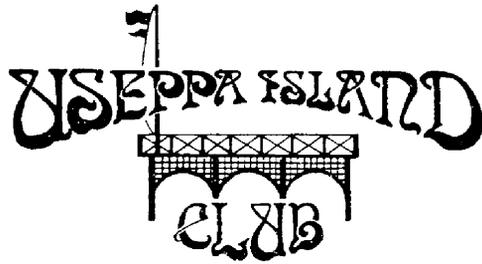
Officer(s) Reporting (please print) G. S. Medlock #J29		Officer's Signature <i>[Signature]</i>	Date 100196
Reviewed By: <i>[Signature]</i>		Reviewer's Signature <i>[Signature]</i> #82	Date 10/1/96
Citation Number	Number Arrested	OBTS Number	Original Supplement <input checked="" type="checkbox"/>

SENT
10/1/96

EXHIBIT ___ (LBB-22)

October 2, 1979:

Letter from Useppa Island Club
authorizing Garfield R. Beckstead
as owner of Useppa Island



October 2, 1979

To Whom It May Concern:

This is a letter of authorization and explanation of the ownership of the Useppa Inn and Dock Company.

The Useppa Inn and Dock Company is a limited partnership organized in the State of Florida and is the sole owner of Useppa Island. Garfield R. Beckstead is the President of the Useppa Inn and Dock Company and is authorized by the Useppa Inn and Dock Company partnership agreements to execute all business in relation to the development of Useppa Island, Florida.

This letter specifically authorizes Garfield R. Beckstead as the owner of Useppa Island to execute documents pertaining to the construction of the Useppa Island sewage treatment system.

A handwritten signature in cursive script, appearing to read "Garfield R. Beckstead".

Garfield R. Beckstead
President

GRB/jcs

RECEIVED

OCT 05 1979

D.F.R. SO. FLA. DISTRICT

EXHIBIT ___ (LBB-23)

June 25th, 1981:

Permit from Florida DEP to construct
sewage collection/transmission system.

STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

SOUTH FLORIDA
DISTRICT

2269 BAY STREET
FORT MYERS, FLORIDA 33901



BOB GRAHAM
GOVERNOR

JACOB D. VARN
SECRETARY

PHILIP R. EDWARDS
DISTRICT MANAGER

June 25, 1981

Mr. Garfield R. Beckstead, Pres.
Useppa Inn & Dock Company
P. O. Box 511
Captiva, Florida 33924

Re: Lee County - DW
Useppa Inn & Dock Company

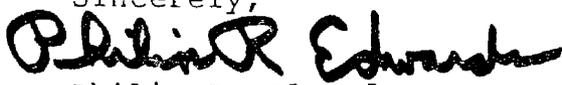
Dear Mr. Beckstead:

Enclosed is Permit Number CS52-36-7680, dated June 25, 1981, to construct the subject sewage collection/transmission system issued pursuant to Section 403, Florida Statutes.

Should you object to this permit, including any and all of the conditions contained therein, you may file an appropriate petition for administrative hearing. This petition must be filed within fourteen (14) days of the receipt of this letter. Further, the petition must conform to the requirements of Section 28-5.201, Florida Administrative Code, (see reverse side of this letter). The petition must be filled with the Office of General Counsel, Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

If no petition is filed within the prescribed time, you will be deemed to have accepted this permit and waived your right to request an administrative hearing on this matter.

Acceptance of the permit constitutes notice and agreement that the Department will periodically review this permit for compliance, including site inspections where applicable, and may initiate enforcement action for violation of the conditions and requirements thereof.

Sincerely,

Philip R. Edwards
District Manager

PRE/BTS/lc
Enclosure

cc: Dept. of Environmental Regulation-Tallahassee
Forrest H. Banks

EXHIBIT ____ (LBB-24)

**Index and Assorted Letters and Reports
from the Florida Department of Environmental Protection
to Useppa Island Club [owner, Garfield Beckstead]
indicating a variety of non-compliance issues
dating from May 15th, 1984 through February 13th, 2003**

Docket No. 020745-SU

EXHIBIT LBB-24

INDEX OF ASSORTED LETTERS AND REPORTS
BETWEEN THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND USEPPA ISLAND CLUB [OWNER, GARFIELD BECKSTEAD]
INDICATING A VARIETY OF NON-COMPLIANCE ISSUES
DATING FROM MAY 15TH, 1984 TO FEBRUARY 13TH, 2003

1. May 15th, 1984: Letter from Florida DEP re. permit expired 9-24-81.
2. June 27th, 1984: Florida DEP receives certificate of completion of construction.
3. September 6th, 1988: DEP post-inspection warning letter re. vegetation, debris, no operations log.
4. January 29th, 1990: Letter from Florida DEP re. permit expired 6-27-89
5. April 13th, 1990: DEP post-inspection warning letter re. no operations log, incomplete reports.
6. March 18th, 1991: DEP post-inspection warning letter re. excessive suspended solids concentration, notification of breakdown.
7. July 2, 1991: Florida DEP post-inspection warning letter re. pump irrigating tennis courts, auxiliary blower.
8. July 19th, 1991: Florida DEP post-inspection warning letter re. pump irrigating tennis courts, auxiliary blower, fecal coliform count high.
9. August 14th, 1991: Florida DEP letter re. no reply to violations.

10. December 2nd, 1991: Florida DEP letter re. failure to comply.
11. January 15th, 1992: Consent Order OGC Case No. 91-1844.
12. December 7th, 1992: Non-compliance with Consent Order OGC Case No. 91-1844.
13. April 28th, 1993: Florida DEP post-inspection warning letter re. accumulation of sludge, chlorine contact chamber.
14. April 20th, 1993: Engineer's Report of correction of Consent Order violations.
15. February 15th, 1995: Florida DEP post-inspection warning letter re. no fence for pond, sludge build-up, chlorine problems including chamber again, sewage odor, no backflow preventor.
16. May 1st, 1995: Florida DEP post-inspection warning letter re. no fence for pond, accurate method of flow determination, additional digester capacity modifications, no backflow preventor, chlorine contact chamber.
17. May 4th, 1995: Florida DEP letter re. incomplete application for permit renewal, request for response.
18. November 7th, 1996: Florida DEP post-inspection warning letter re. chlorine contact chamber, accumulation of sludge, solids on ground, chlorine pump not functioning, no fence for pond, backup pump at lift station.
19. February 12th, 1997: First mailing of Consent Order OGC Case No. 97-0280-36-DW
20. October 24th, 1997: Florida DEP post-inspection warning letter re. sludge line clogged, sludge truck loading dock torn down.

21. July 14th, 1997: Second mailing of Consent Order Case No. 97-0280-36-DW
where applicant accepted the consent order
22. June 8th, 1998: Florida DEP post-inspection warning letter re. high TSS
concentration, high fecal coliform numbers, accumulation of sludge, solids
overload, perc pond sludge build-up, daily flow excessive.
23. July 3rd, 1998: Letter from Useppa Island to Lee County Building Dept re.
building moratorium at the plant.
24. September 14th, 2001: Florida DEP post-inspection warning letter re. wastewater
leakage, cracks on concrete aeration basins, lift stations not locked.
25. September 17th, 2002: Florida DEP post-inspection warning letter re. nitrate
concentrations too high.
26. February 13th, 2003: Florida DEP post-inspection warning letter re. concrete
basins leaking.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

SOUTH FLORIDA
DISTRICT

2269 BAY STREET
FORT MYERS, FLORIDA 33901-2896



BOB GRAHAM
GOVERNOR

VICTORIA J. TSCHINKEL
SECRETARY

PHILIP R. EDWARDS
DISTRICT MANAGER

May 15, 1984

Mr. Garfield Beckstead, President
Useppa Inn & Dock Company
Post Office Box 511
Captiva, FL 33924

Re: Lee County - DW
Usseppa Island Sewage
Treatment Plant

Dear Mr. Beckstead:

A review of our records indicates that your permit number DC36-7680, for the operation of the above sewage treatment plant expired on September 24, 1981.

Operation of a sewage treatment plant without a current and valid permit from this Department is a violation of Section 403.087(1), Florida Statutes.

In order to resolve this matter, we request that you submit completed applications for an operation permit to this office no later than June 20, 1984. These applications must be signed by a Florida Registered Professional Engineer.

Your cooperation in this matter is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Gordon Romeis".

Gordon Romeis
Environmental Specialist
Enforcement

GR/jw

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

SOUTH FLORIDA
DISTRICT

2269 BAY STREET
FORT MYERS, FLORIDA 33901-2896



BOB GRAHAM
GOVERNOR

VICTORIA J. TSCHINKEL
SECRETARY

PHILIP R. EDWARDS
DISTRICT MANAGER

June 27, 1984

Steven K. Morrison, P.E.
Johnson Engineering, Inc.
2158 Johnson Street
Fort Myers, FL 33902

Re: Lee County - DW
Useppa Island WWT Facility

Dear Mr. Morrison:

We are in receipt of your certificate of completion of construction dated June 11, 1984 for the project authorized by Permit No. DC36-6376 and in acceptance of this certification authorize that the facilities can be utilized.

Sincerely,

A handwritten signature in cursive script that reads "Philip R. Edwards".

Philip R. Edwards
District Manager

PRE/00/1c

cc: Mr. Garfield Beckstead



Florida Department of Environmental Regulation

South District • 2269 Bay Street • Fort Myers, Florida 33901-2896 • 813-332-2667

Bob Martinez, Governor

Dale Twachtman, Secretary

John Shearer, Assistant Secretary
Philip Edwards, Deputy Assistant Secretary

September 6, 1988

Mr. Garfield R. Beckstead
President
Useppa Island Inn & Dock Company
P.O. Box 2300
Pineland, Florida 33945

RE: Lee County - DW
Useppa Inn & Dock
Company WWTP

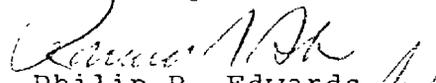
Dear Mr. Beckstead:

The sewage treatment plant at the above referenced location was recently inspected and the following areas require corrective action:

1. Vegetation around the wastewater treatment plant must be removed to allow for an adequate inspection of the facility.
2. Various types of debris (i.e., old pipes, building rubble, trash, etc.) were found beside the facility. This situation creates unsafe working conditions. Please remove those materials not needed for the operation of the facility.
3. Florida Administrative Code Rule 17-16.360(1)(e) requires that an operation and maintenance log be kept for each treatment plant. This log must include, at a minimum: identification of the plant, signature and certification number of the operator, date and time in and out, specific operation and maintenance performed, tests performed and samples taken, and major repairs made.

Please correct items one and two in twenty (20) days and item three immediately. If you have any questions, please do not hesitate to call Charles Emery at 813/332-2667. Your cooperation is appreciated.

Sincerely,


Philip R. Edwards
Deputy Assistant Secretary

PRE/CE/mk
cc: J.N. Environmental



Florida Department of Environmental Regulation

South District • 2269 Bay Street • Fort Myers, Florida 33901-2896 • 813-332-2667

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary

Philip Edwards, Deputy Assistant Secretary

CERTIFIED MAIL NO. P 858 888 214
RETURN RECEIPT REQUESTED

January 29, 1990

Vincent Foranese CONTACT

Garfield R. Beckstead, President
Useppa Island Inn & Dock Company
Post Office Box 2300
Pine Island, Florida 33907

Re: LEE COUNTY - DW
Useppa Inn & Dock Company
DO36-88072

Dear Mr. Beckstead:

A review of our records indicates that your permit, number DO36-88072, for the operation of the above sewage treatment plant expired on June 27, 1989.

Operation of a sewage treatment plant without a current and valid permit from this Department is a violation of Section 403.087(1), Florida Statutes.

In order to resolve this matter a completed application for renewal of the operation permit must be submitted to this office no later than twenty (20) days after receipt of this letter. This application must be signed by a Florida Registered Professional Engineer. Failure to submit a completed application will result in enforcement actions, which may include monetary penalties.

If you have any questions, please contact Coleen Powers of this office at (813) 332-2667. Your cooperation in this matter is appreciated.

Sincerely,

Philip R. Edwards
Deputy Assistant Secretary

PRE/CLP/djb

FILE



Florida Department of Environmental Regulation

South District • 2269 Bay Street • Fort Myers, Florida 33901-2896 • 813-332-2667

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary
Philip Edwards, Deputy Assistant Secretary

April 13, 1990

CERTIFIED MAIL No. P 004 535 450
RETURN RECEIPT REQUESTED

Vincent Formosa
Useppa Inn & Dock Company
P. O. Box 2300
Pineland, FL 33945

RE: Lee County - DW
Useppa WWTP

Dear Mr. Formosa:

The sewage treatment plant at the above referenced location was recently inspected and the following areas require corrective action:

1. Florida Administrative Code Rule 17-16.360(1)(e) requires that an operation and maintenance log be kept for each treatment plant. This log must include, at a minimum: identification of the plant, signature and certification number of the operator, date and time in and out, specific operation and maintenance performed, tests performed and samples taken, and major repairs made.
2. The monthly operating reports indicate they are incomplete in recording daily chlorine residual and pH of the effluent. The parameters and minimum sampling schedule for this domestic wastewater treatment plant are flow, pH and chlorine residual, sampled daily, 5 days a week.

Please have corrective measures taken within 10 days. If you have any questions please do not hesitate to call Jim Grob at (813) 332-2667. Your cooperation is appreciated.

Sincerely,

Philip R. Edwards
Deputy Assistant Secretary

PRE/JVG/jrh

cc: John Newberry



COPY

Florida Department of Environmental Regulation

South District

2269 Bay Street

Fort Myers, Florida 33901-2896

Lawton Chiles, Governor

Carol M. Browner, Secretary

July 2, 1991

CERTIFIED MAIL NO. P 635 219 804
RETURN RECEIPT REQUESTED

Vincent Formosa
P. O. Box 2300
Pineland, FL 33945

Re: Lee County - DW
Useppa Island Club
5236P00081

Dear Mr. Formosa:

The wastewater treatment plant at the above referenced location was inspected on June 27, 1991 and the following areas require corrective action:

1. During the inspection, a pump was found at the percolation pond for the purpose of irrigating the tennis courts. This is a violation of Florida Administrative Code (F.A.C.) Rule 17-600.740(2)(f), which prohibits the planned bypassing of components critical to functioning of the treatment plant designed, or any other critical part of a wastewater facility, without notification to the Department.
2. The facility is operating with only one blower. Your facility is required to have an auxiliary blower installed on site.

Please make arrangements to meet with Department staff on Friday, July 19, 1991 at 10:00 am in this office to discuss the operation of the Useppa Island Club WWTP. . If you have any questions, please do not hesitate to call Mike Good at (813) 332-6975. Your cooperation is appreciated.

Sincerely,

Philip R. Edwards
Director of
District Management

PRE/MTG/jrh

cc: Bobby Middleton - E.O.S.



FILE

Florida Department of Environmental Regulation

South District

2269 Bay Street

Fort Myers, Florida 33901-2896

Lawton Chiles, Governor

Carol M. Browner, Secretary

July 19, 1991

Vincent Formosa
P. O. Box 640
Bokeelia, FL 33922

Re: Lee County - DW
Useppa Island Club
5236P00081

Dear Mr. Formosa:

The wastewater treatment plant at the above referenced location was inspected on June 27, 1991 and the following areas require corrective action:

1. During the inspection, a pump was found at the percolation pond for the purpose of irrigating the tennis courts. This is a violation of Florida Administrative Code (F.A.C.) Rule 17-600.740(2)(f), which prohibits the planned bypassing of components critical to functioning of the treatment plant designed, or any other critical part of a wastewater facility, without notification to the Department.
2. The facility is operating with only one blower. Your facility is required to have an auxiliary blower installed on site.
3. In addition, the fecal coliform value reported on your June monthly operating report was too numerous to count (TNTC) which is a violation of F.A.C. Rule 17-600.440(4)(c)4.

Please make arrangements to meet with Department staff on Friday, August 9, 1991 at 10:00 a.m. in this office to discuss the operation of the Useppa Island Club WWTP. If you have any questions, please do not hesitate to call Mike Good at (813) 332-6975. Your cooperation is appreciated.

Sincerely,

Philip R. Edwards
Director of
District Management

PRE/MTG/dd
cc: E.O.S. - Bobby Middleton

770-153
his receipt //
- 1990 (Re-
- 1990 (Re-



FILE

Florida Department of Environmental Regulation

South District • 2269 Bay Street • Fort Myers, Florida 33901-2896
Lawton Chiles, Governor Carol M. Browner, Secretary

August 14, 1991

CERTIFIED MAIL NO. P 635 482 899
RETURN RECEIPT REQUESTED

Vincent Formosa
P. O. Box 640
Bokeelia, FL 33922

Lee County - DW
Useppa Island Club
5236P00081

Dear Mr. Formosa:

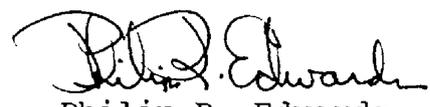
The Department has notified you of violations of F.A.C. Rules 17-600, 17-602 and 17-7 by certified letter on March 18, April 10, July 2 and July 19, 1991, requesting written responses and/or meetings with the Department staff. (See enclosures.)

To date, the Department has not received a written response to our correspondence and two scheduled meetings have not been attended by you or your representatives.

Because the Department has not received a reply to our correspondence to you and you are unable to schedule a "meeting date" with the Department, civil and/or administrative proceedings will be undertaken regarding the operation of the Useppa Island Club WWTP.

If you have any questions, please contact Jim Grob at (813) 332-6975.

Sincerely,


Philip R. Edwards
Director of
District Management

PRE/JVG/dd

cc: Bobby Middleton, E.O.S.
Francine Ffolkes, OGC

Enclosure



Florida Department of Environmental Regulation

South District

2269 Bay Street

Fort Myers, Florida 33901-2896

Lawton Chiles, Governor

Carol M. Browner, Secretary

FILE

December 2, 1991

CERTIFIED MAIL NO. P 642 323 219
RETURN RECEIPT REQUESTED

Vincent Formosa
Useppa Inn & Dock Company Inc.
P. O. Box 640
Bokeelia, FL 33922

Re: Lee County - DW
Useppa Island WWTP
OGC Case No. 91-1844

Dear Mr. Formosa:

On August 27, 1991 the Department staff met with you to discuss the above referenced proposed Consent Order to resolve violations documented at the Useppa Island wastewater treatment plant.

On November 18, 1991 a case report was filed pursuant to Dredge and Fill activities with our Office of General Counsel in Tallahassee for their review. The case report filed by the South District Office references failure by Useppa Inn & Dock Company to comply with the terms of two executed Consent Orders 89-0349 and 90-0828.

In discussions with our Office of General Counsel in Tallahassee, and your apparent failure to comply with existing Department executed Consent Orders, the Department questions whether proposing a Consent Order to resolve problems at the Useppa Island WWTP is worth pursuing.

Consequently, the Department will be proceeding with adding the documented violations to the civil suit case report filed by the District's Dredge and Fill section, requesting authorization to initiate civil suit.

Please advise the Department in writing within ten (10) days of receipt of this letter on the Useppa Inn and Dock Company's position pertaining to the OGC Case 91-1844.

If you have any questions, please contact Jim Grob at (813) 332-6975.

Sincerely,

Philip R. Edwards
Director of
District Management

PRE/JVG/dd

cc: Francine Ffolkes, OGC Tallahassee



Florida Department of Environmental Regulation

South District

2269 Bay Street

Fort Myers, Florida 33901-2896

Lawton Chiles, Governor

Carol M. Browner, Secretary

January 15, 1992

CERTIFIED MAIL NO. P 642 323 191
RETURN RECEIPT REQUESTED

Vincent Formosa
Useppa Inn and Dock Company
P. O. Box 640
Bokeelia, FL 33922

Re: Lee County - DW
Useppa Island Club WWTP
OGC Case No. 91-1844

Dear Mr. Formosa:

Enclosed is the signed and entered Consent Order to resolve the above referenced case. This copy is for your records.

Please note that all compliance dates begin from the date of entry of this Order which is January 15, 1992.

Upon satisfactory completion of all conditions of the Order, we will close this case and place it in our inactive file.

Your cooperation in resolving this case is appreciated.

Sincerely,

Philip R. Edwards
Director of
District Management

PRE/JVG/dd

cc: OGC
File
Bobby Middleton

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT)	
OF ENVIRONMENTAL REGULATION,)	IN THE OFFICE OF THE
)	SOUTH FLORIDA DISTRICT
Complainant,)	
)	OGC File No. 91-1844
vs.)	
)	
Useppa Utilities, Incorporated)	
)	
)	
Respondent.)	
_____)	

CONSENT ORDER

This Consent Order is made and entered into between the State of Florida Department of Environmental Regulation ("Department") and Useppa Inn and Dock Company and ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent admits the following:

1. The Department is the administrative agency of the State of Florida which has the authority to administer and enforce the provisions of Chapter 403, Florida Statutes, and the rules promulgated thereunder, Florida Administrative Code Chapter 17-4 and 17-604. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a person within the meaning of Section 403.031(5), Florida Statutes.

3. Respondent owns, operates, and maintains a 0.015 MGD wastewater treatment plant (WWTP), extended aeration process, servicing the Useppa Island Club. This plant is located on Useppa Island, Lee County, Florida.

4. Respondent is authorized to operate this facility under Permit Number D036-177473, issued April 10, 1990 with expiration on April 10, 1995.

5. The Respondent's wastewater treatment plant (WWTP) violated F.A.C. Rule 17-600.740(2)(f), which prohibits the planned bypassing of components critical to the functioning of the treatment plant designed, or any other critical part of a wastewater facility, without notification to the Department. The Respondent's percolation pond effluent was discovered being pumped to spray irrigation heads located at the facility by Department personnel during an inspection conducted by the Department on June 27, 1991.

6. Respondent violated F.A.C. 17-600.410(2) and specific condition number 5 of operation permit D036-177473, which requires the wastewater treatment plant (WWTP) to be under the supervision of a certified operator class D or higher, for 3 non-consecutive visits per week for 1 1/2 hours. Investigation of the WWTP's operational log dated January 1991 through February 1991 indicated the required staffing time was not adhered to.

Having reached a resolution of the matter pursuant to Florida Administrative Code Rule 17-103.110(3), the Department and the Respondent mutually agree and it is

ORDERED:

7. Within five days after the effective date of this Consent Order, Respondent shall retain the services of a Florida registered professional engineer for the purpose of:

- a. Evaluating the subject WWTP including the effluent disposal system, and associated sewage collection system to discover the cause or causes of the treatment plant non-compliance.
- b. Designing modifications of the WWTP, effluent disposal system, and/or sewage collection systems to ensure that the WWTP and effluent disposal system will function in full and consistent compliance with all applicable rules and regulations of the Department.
- c. Completion of applications for a Department permit to construct the modifications listed in b above if such a permit is required.
- d. Overseeing the construction of any modifications to the WWTP, effluent disposal system or collection system.
- e. Submission to the Department of an engineer's certification of completion stating that the construction of modifications to the WWTP, effluent disposal system or collection system have been constructed in accordance with the provisions of the construction permit referenced in c above, if applicable.

Respondent shall require the engineer to contact the Department's Domestic waste compliance inspector by telephone or in person prior to the initiation of the treatment system evaluation listed in a and b above.

8. Within thirty (30) days after the effective date of this Consent Order Respondent shall submit to the Department completed applications for a Department permit to construct the modifications specified in 7b above if such a permit is required.

9. In the event the Department requests additional information in order to process the construction permit application, Respondent shall provide all requested information within thirty days after receipt of such an information request.

10. Respondent shall complete the construction of the sewage treatment plant modification and submit an engineer's certification of completion to the Department within 180 days after the construction permit is issued.

11. Respondent shall submit within sixty (60) days of the effective date of this Consent Order a description of the treatment process used to stabilize the residuals and the classification of stabilization achieved in accordance with Chapter 17-640 F.A.C.; in addition, include the land application use plan for the residual disposal site in accordance with the aforementioned rules.

12. Respondent shall submit within one hundred eighty (180) days of the effective date of this Consent Order, an engineering report certified by a Florida professional engineer, certifying

that the lift station of the WWTP, susceptible to infiltration from high tides, is in compliance with the requirements of F.A.C. Rule 17-604.

13. Respondent shall immediately cease and desist all unpermitted discharges of effluent for the purpose of irrigation and/or fire protection usage.

14. Respondent shall within sixty (60) days of the effective date of this Consent Order install an auxiliary blower on site at the WWTP.

15. Respondent agrees to pay the Department stipulated penalties in the amount of \$100 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs seven, eight, nine, ten, eleven, twelve, thirteen and fourteen of this Order. A separate stipulated penalty shall be assessed for each violation of this Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Regulation" by cashier's check or money order and shall include thereon the OGC number assigned to this Order and the notation "Pollution Recovery Fund". Payment shall be sent to the State Of Florida Department of Environmental Regulation, 2269 Bay Street Ft. Myers, Florida 33901. The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order.

16. Within 30 days of execution of this Consent Order, Respondent shall pay the Department \$4,800.00 in settlement of the matters addressed in this Consent Order. This amount includes a civil penalty of \$4,800.00 for alleged violations of Section 403.161, F.S., and of the Department's rules. Payment shall be made by cashier's check or money order. The instrument shall be made payable to the Department of Environmental Regulation and shall include thereon the OGC number assigned to this Order and the notation "Pollution Recovery Fund". The payment shall be sent to the State of Florida Department of Environmental Regulation, 2269 Bay Street, Fort Myers, Florida 33901.

17. Persons who are not parties to this Consent Order but whose interests are affected by this Consent Order have a right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at 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 District Office 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 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 Consent Order 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 Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (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 Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

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 Consent Order 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 pursuant to Rule 28-5.207, F.A.C.

18. Entry of this Consent Order does not relieve Respondent of the need to comply with the applicable federal, state or local laws, regulations, or ordinances.

19. The terms and conditions set forth in this Consent Order 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 Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

20. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per offense and criminal penalties.

21. Respondent shall allow all authorized representatives of the Department access to the property at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules of the Department.

22. All plans, applications, and information required by this Consent Order to be submitted to the Department should be sent to the Director of District Management, 2269 Bay Street, Fort Myers, Florida 33901.

23. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any future violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

24. The Department, for and in consideration of the complete

and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations outlined in this Consent Order. Respondent waives its right to an administrative hearing pursuant to Section 120.57, Florida Statutes, on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, but waives that right upon signing this Consent Order.

25. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their directors, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.

26. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.

27. If all of the requirements of this Consent Order have not been fully satisfied, Respondent shall not sell or convey the above-described property without, at least 14 days prior to such sale or conveyance, (1) notifying the Department of such sale or conveyance, and (2) providing a copy of this Consent Order with all attachments to the new owner.

28. This Consent Order is final agency action of the Department pursuant to Section 120.69, Florida Statutes, and

Florida Administrative Code Rule 17-103.110(3), and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT
Useppa Utilities, Incorporated

Vincent Formosa
Vincent Formosa
Vice President

January 13, 1992
Date

DONE AND ORDERED this 16th day of January, 1992,
in Fort Myers, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

Philip R. Edwards
Philip R. Edwards
Director of
District Management
South Florida District
2269 Bay Street
Fort Myers, Florida 33901
Telephone: (813) 332-6975

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the following was furnished by U.S. Mail to Vincent Formosa this 16th day of January, 1992.

Ronald D. Blackburn
Ronald D. Blackburn
Environmental Administrator

105603-92-B



POSTAGE:
ICES (see front).
The return address
shown on hand is the
right of the return
address of the recipient
of this receipt.
RETURN RECEIPT
REQUESTED

Florida Department of Environmental Regulation

South District • 2295 Victoria Avenue • Fort Myers, Florida 33901
Lawton Chiles, Governor • Carol M. Browner, Secretary

December 7, 1992

CERTIFIED MAIL NO. P 405 486 397
RETURN RECEIPT REQUESTED

Vincent Formosa
Useppa Inn and Dock Company
P. O. Box 640
Bokeelia, Florida 33922

Re: Lee County - DW
Useppa Island Club WWTP
OGC Case No.: 91-1844

Dear Mr. Formosa:

A review of the Consent Order OGC Case No. 91-1844 for the above referenced facility indicates that you are not in compliance with paragraphs 11 and 12 of said Consent Order.

Pursuant to paragraph 15 of the above referenced Consent Order, Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day respondent fails to timely comply with any of the requirements of paragraphs seven through fourteen of this Order.

In order to expedite compliance with all conditions of the Consent Order and to ensure that the facility can operate in compliance with Florida Administrative Code regulations, please make arrangements to attend a meeting with the Department's staff on Tuesday December 15, 1992 at 10:00 a.m.

If you have any questions regarding this matter, please contact Winston Anderson or James Grob at (813) 332-6975.

Your cooperation in resolving this case is anticipated.

Sincerely,

Philip R. Edwards
Director of
District Mangement

PRE/WA/dd
cc: OGC - Tallahassee
Steven K. Morrison, P.E.
Mr. Garfield Beckstead
File

FILE

Florida Department of Environmental Regulation

South District

2295 Victoria Avenue

Fort Myers, Florida 33901

Lawton Chiles, Governor

Virginia B. Wetherell, Secretary

April 28, 1993

CERTIFIED MAIL NO. P 098 002 394
RETURN RECEIPT REQUESTED

Mr. Vincent Formosa
Useppa Inn and Dock Company
P.O. Box 640
Bokeelia, Florida 33922

Re: Lee County - DW
Useppa Island Club WWTP
OGC Case 91-1844

Dear Mr. Formosa:

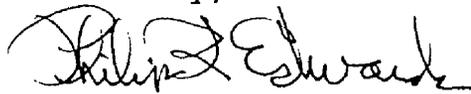
A field inspection of your facility on April 8, 1993 indicates that you may be in violation of Chapter 403. Florida Statutes and the rules promulgated thereunder. The following observations are listed below:

1. The chlorine contact chamber and the lined effluent pond have an accumulation of sludge which may interfere with the facility's ability to function as intended. The accumulation of sludge is also indicative of poor effluent quality.
2. The chlorine contact chamber may not provide for adequate chlorine detention time in accordance with Florida Administrative Code (F.A.C.) rule 17-600.440(4)b. which requires a minimum of a 0.5 ppm residual to be maintained after at least 15 minutes contact time at peak hourly flow.

The Department requests a written report addressing the chlorine contact chamber's ability to provide the required contact time pursuant to 17-600.440(4)(b) for basic disinfection.

If you have any questions pertaining to these matters please contact Patty Baron or Jim Grob at (813) 332-6975.

Sincerely,



Philip R. Edwards
Director of
District Management

PRE/JVG/klm

cc: Patty Baron
Steve Morrison

JOHNSON ENGINEERING, INC.

CIVIL ENGINEERS AND LAND SURVEYORS

2158 JOHNSON STREET
TELEPHONE (813) 334-0046
TELECOPIER (813) 334-3661
POST OFFICE BOX 1550
FORT MYERS, FLORIDA
33902-1550

April 20, 1993

APR 20 1993

CARLE JOHNSON
1911-1968

Mr. James Grob, Environmental Specialist
Department of Environmental Regulation
Fort Myers Regional Service Center
2295 Victoria Street - Suite 364
Fort Myers, FL 33901

Re: Useppa Island Club
OGC Case No. 91-1844

Dear Mr. Grob:

On Thursday, April 15, 1993, I made an on-site check of the Useppa Island Club wastewater treatment facilities. Based upon this check, it is my opinion that all items required by the above referenced Consent Order have been adequately addressed.

Should you have any questions, please advise.

Very truly yours,

JOHNSON ENGINEERING, INC.



Steven K. Morrison, P.E.

SKM/clw

7769

cc: Vince Formosa

CHAIRMAN
ARCHIE T. GRANT, JR.

PRESIDENT
FORREST H. BANKS

JOSEPH W. EBNER
STEVEN K. MORRISON
ANDREW D. TILTON
JEFFREY C. COONER

DAN W. DICKEY
KENTON R. KEILING
GEORGE J. KALAL
MICHAEL L. HARMON
THOMAS L. FENDLEY
W. DAVID KEY, JR.
W. BRITT POMEROY
CARL A. BARRACO
GARY R. BULL
KEVIN M. WINTER
STEPHEN W. ADAMS
PATRICIA H. NEWTON

CONSULTANT
LESTER L. BULSON



Department of Environmental Protection

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901

Virginia B. Wetherell
Secretary

February 15, 1995

Vincent Formosa
Useppa Inn and Dock Company
P.O. Box 640
Bokeelia, FL 33922

Re: Lee County - DW
Useppa Island Club WWTP
DO36-177473

Dear Mr. Formosa:

A field inspection of the above referenced WWTP on January 3, 1995 indicates that you may be in violation of Chapter 403, Florida Statutes and the rules promulgated thereunder. The resulting observations are listed below:

1. The holding pond and percolation ponds are not fenced. F.A.C. Rule 62-610.518 states that percolation ponds, infiltration basins or trenches, and storage ponds shall be enclosed with a fence or otherwise designed with appropriate features to discourage entry of animals and unauthorized persons.
2. The holding pond has a build-up of sludge which may interfere with its ability to properly function. Florida Administrative Code (F.A.C.) Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.
3. During the inspection a chlorine residual reading was determined at the point of discharge in the chlorine contact chamber. The reading indicated a chlorine residual of 0.0 milligrams per liter (mg/l). Florida Administrative Code (F.A.C.) Rule 62-600.440(4)b requires a total chlorine residual of at least 0.5 milligrams per liter to be maintained after at least 15 minutes contact time at peak hourly flow.
4. A strong sewage odor was detected emanating from the lined pond. Florida Administrative Code (F.A.C.) Rule 62-600.410 (8) states that in the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health

Continued . . .

Mr. Vincent Formosa
February 15, 1995
Page 2

and safety, or odor, noise, aerosol drift, or lighting adversely affect the neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modification of the treatment plant) shall be taken by the permittee. Other corrective action may be required to ensure compliance with the rules of the Department.

5. An approved backflow preventer was not observed on the potable water line supplying the WWTP in accordance with F.A.C. Rule 62-555.360(3). Please contact **Bill Allen of the County Public Health Engineering at (813) 939-4245** in order to discuss the requirements for backflow prevention at this facility.
6. Please note that the chlorine contact chamber appears as if it will not meet F.A.C. Rule 62-600.440(b) which states that a total chlorine residual of at least 0.5 milligrams per liter to be maintained after at least 15 minutes contact time at peak hourly flow.

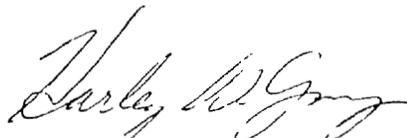
Please note that 17-Florida Administrative Code, (F.A.C.) Rules have been renumbered to 62-F.A.C. effective August 10, 1994. The content of 17-F.A.C./62-F.A.C. rules remain the same.

You are advised that any activity that may contribute to violations of the above described statutes and rules should cease immediately. Continued operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties up to \$10,000 per violation per day pursuant to Sections 403.141 and 403.161, Florida Statutes.

Please notify the Department in writing within fifteen (15) days as to what actions you intend to take in order to rectify these problems.

If you have any questions, please do not hesitate to call Keith Kleinmann at (813) 332-6975. Your cooperation is appreciated.

Sincerely,



Harley W. Young, Ph.D., P.E.
Water Facilities
Section Manager

HWY/KK/klm

cc: Bill Allen



Department of Environmental Protection

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wecherell
Secretary

May 1, 1995

Vincent Formosa
Useppa Inn and Dock Company
P.O. Box 640
Bokaelia, FL 33922

Re: Lee County - DW
Useppa Island Club WWTP
D036-177473

Dear Mr. Formosa:

A field inspection of the above referenced WWTP on April 21, 1995 indicates that you may be in violation of Chapter 403, Florida Statutes and the rules promulgated thereunder. The resulting observations are listed below:

1. The holding pond and percolation ponds are not fenced. F.A.C. Rule 62-610.518 states that percolation ponds, infiltration basins or trenches, and storage ponds shall be enclosed with a fence or otherwise designed with appropriate features to discourage entry of animals and unauthorized persons.
2. An accurate method of flow determination is recommended. The operator is currently determining flow by water meter readings and estimating that 30% of the water meter readings is treated at the wastewater facility.
3. It is recommended that additional digester capacity modifications be undertaken or installation of residual drying beds in order for the operator to maintain a proper solids inventory at the facility. Observations indicate the effluent quality was marginal. Operator reports indicate that residuals were hauled only once during the winter months due to the inaccessibility of your island by residual haulers.
- ✓ 4. An approved backflow preventer was not observed on the potable water line supplying the WWTP in accordance with F.A.C. Rule 62-555.360(3). Please contact Bill Allen of the County Public Health Engineering at (813) 939-4245 in

Continued . . .

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

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order to discuss the requirements for backflow prevention at this facility.

5. The chlorine contact chamber was dye tested and it was determined that it will not meet F.A.C. Rule 62-600.440(b) which states that a total chlorine residual of at least 0.5 milligrams per liter to be maintained after at least 15 minutes contact time at peak hourly flow.

Please note that 17-Florida Administrative Code, (F.A.C.) Rules have been renumbered to 62-F.A.C. effective August 10, 1994. The content of 17-F.A.C./62-F.A.C. rules remain the same.

You are advised that any activity that may contribute to violations of the above described statutes and rules should cease immediately. Continued operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties per violation per day pursuant to Sections 403.141 and 403.161, Florida Statutes.

Please notify the Department in writing within fifteen (15) days as to what actions you intend to take in order to rectify these problems.

If you have any questions, please do not hesitate to call Jim Grob at (813) 332-6975. Your cooperation is appreciated.

Sincerely,



Harley W. Young, Ph.D., P.E.
Water Facilities
Section Manager

HWY/JVG/klm

cc: Bill Allen
Bennie T. Shoemaker



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901

Virginia B. Wetherell
Secretary

May 4, 1995

Vincent Formosa, Vice President
Useppa Island Club
P.O. Box 640
Bokeelia, Florida 33922

Re: Lee County - DW
Useppa Island Club - S.T.P.
Aka: Useppa Inn & Dock Co.
Application Number: 268909

Dear Mr. Formosa:

This letter is to inform you that the application received concerning an operation permit for the above referenced project is incomplete. In accordance with Section 62-4.055(1) F.A.C., it is requested that the following additional information be submitted as soon as possible.

Please provide a schedule of compliance for the items that were address in the Department letter date May 1, 1995. In addition, the following items are required:

- 1.) Please note that the chlorine contact chamber does not have any baffle. A dye test was conducted by the Department which yielded only seven (7) minutes of detention time. Provide a schedule for corrective action in accordance with F.A.C. Rule 62-600.440(4)(b).
- 2.) An approved backflow preventer was not observed on the potable water line supplying the WWTP, in accordance with F.A.C. Rule 62-555.360(3). Provide a schedule for corrective action.
- 3.) Provide a capacity analysis report, in accordance with F.A.C. Rule 62-600.405.
- 4.) Provide the operation and maintenance performance report, in accordance with F.A.C. Rule 62-600.735. This report must include the lead operator's and applicant's signature and the professional engineer's seal and signature.
- 5.) Provide an agricultural use plan and disposal site being utilized by the referenced facility, in accordance with Chapter 62-640 F.A.C.

Continued . . .

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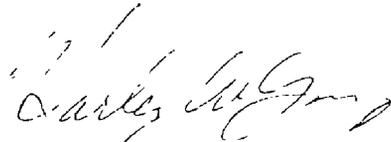
Mr. Vincent Formosa
May 4, 1995
Page 2

6.) Provide access control warning signs for holding and percolation ponds, in accordance with F.A.C. Rule 62-610.518.

Note: All items submitted in response to this letter must be signed, sealed and dated by a professional engineer registered in the State of Florida.

Should you have any questions or if we can be of any further assistance, **please do not hesitate to contact Bennie T. Shoemaker at (813) 332-6975.**

Sincerely,



Harley W. Young, P.E.
Water Facilities Section Manager

HWY/BTS/klm

cc: Steven K. Morrison, P.E.
Jim Grob, Enforcement



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

November 7, 1996

Vincent Formosa
Useppa Island Club
P.O. box 640
Bokeelia, Florida 33922

Re: Lee County - DW
Useppa Island Club WWTP
FLA014494-268909

Dear Mr. Formosa:

A field inspection of the above referenced facility on October 14, 1996 indicates there may be violations of Chapter 403, Florida Statutes (F.S.) and the rules promulgated thereunder.

Department personnel observed the following at the facility:

1. During the inspection a chlorine residual reading was determined at the point of discharge in the chlorine contact chamber. The reading indicated a chlorine residual of 0.0 milligrams per liter (mg/L). Florida Administrative Code (F.A.C.) Rule 62-600.440(4)b requires a total chlorine residual of at least 0.5 mg/L to be maintained after at least 15 minutes contact time at peak hourly flow.
2. The chlorine contact chamber has an accumulation of sludge which may increase the facility's potential for a total suspended solids violation and/or reduce the required disinfection time. F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.
3. Solids were found on the ground around the chlorine contact chamber and around the aeration tanks. F.A.C. Rule 62-600.740(2)(a) states that the release or disposal of excreta, sewage, or other wastewaters or domestic wastewater residuals without providing proper treatment is prohibited.

Continued.....

4. The chlorine pump was not functioning. F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.
5. The percolation ponds are not fenced. F.A.C. Rule 62-610.518 states that percolation ponds, infiltration basins or trenches, and storage ponds shall be enclosed with a fence or otherwise designed with appropriate features to discourage entry of animals and unauthorized persons.
6. The polishing pond has a build-up of sludge which may interfere with its ability to properly function. F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.
7. Only one pump is installed at a majority of the facility's lift stations. F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended. Both lift stations pumps should be operable.

Any activity at the facility that may be contributing to violations of the above described statute and rules should be ceased immediately.

Continued activities at the facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties up to \$10,000 per violation per day, pursuant to Sections 403.141 and 403.161, F.S.

PLEASE BE ADVISED that this Warning Letter is a part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), F.S.

If the Department determines that an enforcement proceeding should be initiated in this case, it may be initiated by issuing a Notice of Violation or by filing a judicial action in accordance with Section 403.121, F.S.

Vincent Formosa
November 7, 1996
Page 3

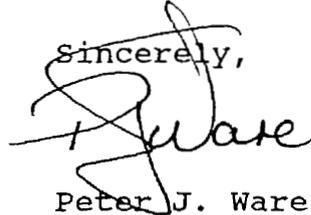
If the Department issues a Notice of Violation, and you are named as a party, you will be informed of your rights to contest any determination made by the Department in the Notice of Violation.

The Department can also resolve any violation through entry into a Consent Order.

The purpose of this letter is to advise you of potential violations and to set up a meeting to discuss possible resolutions to any potential violations that may have occurred for which you may be responsible.

PLEASE CONTACT KEITH KLEINMANN AT (941) 332-6975 OR AT THE LETTERHEAD ADDRESS WITHIN 15 DAYS OF RECEIPT OF THIS WARNING LETTER TO ARRANGE A MEETING TO DISCUSS THE ISSUES RAISED IN THIS WARNING LETTER. You may wish to contact an attorney and to have the attorney attend this meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Ware", written over the word "Sincerely,".

Peter J. Ware
Director of
District Management

PJW/KK/dd

Department of Environmental Protection

FILE

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

February 12, 1997

CERTIFIED MAIL NO. P 314 435 352
RETURN RECEIPT REQUESTED

Vincent Formosa
Useppa Island Club
P.O. Box 640
Bokeelia, Florida 33922

Re: Lee County - DW
OGC Case No. 97-0280-36-DW
Useppa Island WWTP

Dear Mr. Formosa:

Enclosed is the Consent Order to resolve the above referenced case. Please sign this copy and return it to the Department within fifteen (15) days.

If you have any questions please contact Andrew Barienbrock at (941) 332-6975. Your cooperation in resolving this case is appreciated.

Sincerely,


Margaret F. Highsmith
Acting Director of
District Management

MFH/AB/dd

Enclosure

cc: Nona Schaffner - OGC (w/enclosure)

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

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Postage stamps to article to cover First-Class
for any selected optional services (See the
I want this receipt postmarked, stick the gum
leaving the receipt attached, and present it
or hand it to your rural carrier (no extra charge).
I do not want this receipt postmarked, stick it
address of the article, date, detach, and retain it
I want a return receipt, write the certified mail r
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3. Respondent is the owner and is responsible for the operation of the Useppa Island wastewater treatment plant, a 0.015 MGD extended aeration wastewater treatment facility ("Facility") with chlorinated effluent to an existing polishing pond and then to a single cell percolation pond. The Facility is located at latitude 26 39' 44" N, Longitude 82 12' 43" W.

4. The Respondent operates the Facility under Department permit No. FLA014494-268909 which expires on August 20, 2000.

5. Respondent has violated Florida Administrative Code (F.A.C.) Rule 62-600.440(4)b which requires a chlorine residual of at least 0.5 milligrams per liter (mg/L) to be maintained after at least 15 minutes contact time at peak hourly flow. During the Department inspection on November 7, 1996 and on January 2, 1997 a Chlorine residual reading was determined at the point of discharge in the chlorine contact chamber. The reading indicated a chlorine residual of 0.0 and 0.1 mg/L.

6. Respondent has violated F.A.C. Rule 62-600.440(4)(c)4 which requires any one sample to not exceed 800 fecal coliform colonies per 100 ml of sample. During the Department January 2, 1997 inspection a fecal coliform grab sample was taken. The Sample results of the fecal coliform analysis was 60,000 fecal coliform colonies per 100 ml.

7. Respondent has violated F.A.C. Rule 62-600.740(1)(b)1.d. which requires any reclaimed water or effluent grab sample of total suspended solids (TSS) to not exceed 60 mg/L. During the Department January 2, 1997 inspection a TSS sample was taken. The sample result indicated that the TSS concentration was 575 mg/L.

8. Respondent has violated F.A.C. Rule 62-600.740(2)(a) which states that the release or disposal of excreta, sewage, or other wastewater or domestic wastewater residuals without providing proper treatment is prohibited. During the Department inspection on November 7, 1996 wastewater residuals were found on the ground around the chlorine contact chamber and around the aeration tanks.

9. Respondent has violated F.A.C. Rule 62-600.410(6) which requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended. During the Department inspection on November 5, 1996 the facilities chlorine pump was not functioning, the polishing pond had a build up of sludge, and the majority of the facilities lift stations contain only one pump.

10. Having reached a resolution of the matter the Department and the Respondent mutually agree and it is

ORDERED:

11. Within five (5) days after the effective date of this Consent Order Respondent shall retain the services of a Florida professional engineer for the purpose of:

- a. Evaluating the subject Facility including the effluent disposal system and associated sewage collection system to discover the cause or causes of the noncompliance.
- b. Designing modifications of the Facility, effluent disposal system, and/or sewage collection systems to

ensure the Facility and effluent disposal system will function in full and consistent compliance with all applicable rules of the Department.

- c. Completing an application for a Department wastewater permit to construct the modifications listed in subparagraph b, above, if such a permit is required.
- d. Overseeing the construction of any modifications to the Facility, effluent disposal system, or collection system.
- e. Submitting to the Department an engineer's certification of completion stating that the construction of modifications to the Facility, effluent disposal system, or collection system have been constructed in accordance with the provisions of the wastewater permit referenced in subparagraph c, above, if applicable.
- f. Contacting the Department's Domestic Waste Compliance Inspector by telephone or in person prior to the initiation of the treatment system evaluation listed in subparagraphs a and b, above.
- g. Providing all requested information in writing within thirty (30) days after receipt of such a request in the event the Department requires additional information in order to process the wastewater permit application listed in subparagraph c, above.

h. Respondent shall complete the construction of the sewage treatment modification referred to in paragraph 9.b., above, and submit an engineer's certification of completion to the Department within ninety (90) days after the wastewater permit authorizing said construction is issued.

12. Every **calendar quarter** after the effective date of this Consent Order, Respondent shall submit **in writing** to the Department a report containing information concerning the status and progress of projects being completed under this Consent Order, information as to compliance or noncompliance with the applicable requirements of this Consent Order including construction requirements and effluent limitations, and any reasons for noncompliance. Such reports shall also include a projection of the work to be performed pursuant to this Consent Order during the following 12 month period. The reports shall be submitted to the Department within thirty (30) days following the end of the quarter.

13. Within 60 days of the effective date of this Consent Order, Respondent shall submit to the Department a detailed Operation and Maintenance Performance Report meeting all of the requirements of Chapter 62-600.735, F.A.C.

14. Within 60 days of the effective date of this Consent Order, Respondent shall submit an Initial Capacity Report for the Facility which meets all the requirements of Chapter 62-600.405, F.A.C.

15. In the event of a sale or conveyance of the Facility or of the property upon which the Facility is located, if all of the

requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the property or Facility, (1) notify the Department of such sale or conveyance, (2) provide the name and address of the purchaser, or operator, or person(s) in control of the Facility, and (3) provide a copy of this Consent Order with all attachments to the new owner. The sale or conveyance of the Facility, or the property upon which the Facility is located shall not relieve the Respondent of the obligations imposed in this Consent Order.

16. Within thirty (30) days of execution of this Consent Order, Respondent shall pay the Department \$4400.00 in settlement of the matters addressed in this Consent Order. This amount includes \$3900.00 in civil penalties for alleged violations of Section 403.161, F.S., and of the Department's rules and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Payment shall be made by cashier's check or money order. The instrument shall be made payable to "The Department of Environmental Protection" and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to the Department of Environmental Protection, 2295 Victoria Avenue, Suite 364 Fort Myers, Florida 33901-3881.

17. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of Paragraphs 11-16 of this Consent Order. A separate stipulated

penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, 2295 Victoria Avenue, Suite 364 Fort Myers, Florida 33901-3881. The Department may make demands for payment at any time after violations occur. Nothing in this Paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Consent Order. Any penalties assessed under this Paragraph shall be in addition to the settlement sum agreed to in Paragraph 14 of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this Paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this Paragraph.

18. If any event, including administrative or judicial challenges by third parties unrelated to the Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the

failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

19. Persons who are not parties to this Consent Order, but whose substantial interests are affected by this Consent Order, have a right, pursuant to Section 120.569 and 120.57, F.S., to petition for an administrative hearing on it. The Petition must contain the

information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399 3000 within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office 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 hearing pursuant to Section 120.569 and 120.57, F.S.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's Consent Order 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 Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (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 Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

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 Consent Order 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 pursuant to 60Q-2.010, F.A.C.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573 before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filled a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS #35, Tallahassee, Florida 32399-3000,

by the same deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

(a) The names, addresses, and telephone numbers of any persons who may attend the mediation;

(b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selection a mediator within a specified time;

(c) The agreed allocation of the costs and fees associated with the mediation;

(d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;

(e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;

(f) The name of each party's representative who shall have authority to settle or recommend settlement; and

(g) Either an explanation of how the substantial interests of each mediating party will affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reverence.

(h) The signatures of all parties or their authorized representatives.

As provided in section 120.573 of the Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by sections 120.569 and 120.57 for requesting and holding an administrative hearing. Unless

otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57 remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

20. In addition to routine annual inspections, Respondent shall allow all authorized representatives of the Department access to the property and Facility at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules of the Department.

21. All plans, applications, penalties, stipulated penalties, costs and expenses, and information required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, 2295 Victoria Avenue, Suite 364 Fort Myers, Florida 33901-3881.

22. This Consent Order is a settlement of the violations alleged by the Department in Paragraphs 5 through 9, above,

pursuant to the Department's civil and administrative authority under Chapters 403 and 376, F.S. This Consent Order does not address settlement of any criminal liabilities which may arise from Sections 403.161(3) through (5), 403.413(5), 403.727(3)(b), 376.302(3) and (4), or 376.3071(10), F.S., nor does it address settlement of any violation which may be prosecuted criminally or civilly under federal law.

23. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

24. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), F.S.

25. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations through the date of the filing of this Consent Order as outlined in this Consent Order.

26. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per offense, and criminal penalties.

of the need to comply with any and all applicable federal, state or local laws, regulations or ordinances.

28. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their directors, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.

29. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.

30. Respondent acknowledges but waives its right to an administrative hearing pursuant to Section 120.569 and 120.57, F.S., on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, F.S., but waives that right upon signing this Consent Order.

31. This Consent Order is a final order of the Department pursuant to Section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for and Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

32. This Consent Order is final agency action of the Department pursuant to Section 120.52(11), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT

Vince Formosa
Vice President

DONE AND ORDERED this _____ day of _____,
1997, in Fort Myers, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Margaret F. Highsmith
Acting Director of
District Management

MFH/ARB/dd

Copies furnished to:

David Thulman
Bob Glenn



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

October 24, 1997

Vince Formosa
Vice President & General Manager
Useppa Island Utilities
P.O. Box 640
Bokeelia, FL 33922

Re: Lee County - DW
Useppa Island WWTP
FLA014494-268909

Dear Mr. Formosa:

A field inspection of the above referenced WWTP on September 17, 1997 indicates that you may be in violation of Chapter 403, Florida Statutes and the rules promulgated thereunder. The resulting observations are listed below:

1. During the inspection it was noted that the return activated sludge line had clogged on September 15, 1997 causing solids to spill over into the chlorine contact chamber. Department records indicate that the Department was not notified of this event. F.A.C. Rule 62-600.750(1) requires that in the event that any treatment plant, reuse, or disposal system is temporarily unable to comply with any of the conditions of the permit due to the breakdown of equipment, power outages, destruction by hazard of fire, wind or by other cause, the permittee shall notify the Department and the local program (where existing). Notification shall be made in person, by telephone, or by telegraph to the nearest office of the Department and the local program within 24 hours of breakdown or malfunction.
2. During the inspection it was noted that the sludge truck loading dock had been torn down. This action has eliminated any ability for removing solids from the plant. Conversations with the facility operator indicated that the facility was maintaining an extremely high level of mixed liquor suspended solids. F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended. **The Department requests that all residual solids be removed from the facility within 15 days.**

Continued.....

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

Printed on recycled paper

Vince Formosa
October 24, 1997
Page 2

3. The chlorine contact chamber has an accumulation of sludge which may increase the facility's potential for a total suspended solids violation and/or reduce the required disinfection time. F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.
4. During the inspection it was found that each aeration tank still had a separate functional influent line. Please provide schematics showing how independent lift stations tie into the force main going to the treatment plant, and indicate whether any lift station are consolidated to a main lift station prior to the force main leading to the plant. F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended. A review of the quarterly report dated October 16, 1997 indicated plans for a main lift station are under consideration. Please submit to the Department all plans and time schedules for this modification.

You are advised that any activity that may contribute to violations of the above described statutes and rules should cease immediately. Continued operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties pursuant to Sections 403.141 and 403.161, Florida Statutes.

Please notify the Department in writing within five (5) days as to what actions you intend to take in order to address these deficiencies.

If you have any questions, please do not hesitate to call Keith Kleinmann at (941) 332-6975. Your cooperation is appreciated.

Sincerely,


Andrew R. Barienbrock
Environmental Manager

ARB/KK/dd

cc: Ted Davis, Florida Public Service Commission
David Schmitt
Florida Rule Water Association
Lee County Environmental Health Dept.

P 063 118 331

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Department of Environmental Protection

FILE

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881

Virginia B. Wetherell
Secretary

July 14, 1997

063 118 331
STED

eral Manager
ies

Re: Lee County - DW
OGC Case No. 97-0280-36
Useppa Island WWTP

PS Form 3800, April 1995

Sent to	MR VINCENT FORMOSA V P
Street Address	AND GENERAL MANAGER
Post Office, State, & ZIP Code	USEPPA ISLAND UTIL P O BOX 640
Postage	BOKEELIA FL 33922 \$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	AB/k1m/DD DW 7-10-97

Dear Mr. Formosa:

Enclosed is the signed and entered Consent Order to resolve the above referenced case. This copy is for your records.

Please note that all compliance dates begin from the date of entry of this Order which is July 14, 1997.

Upon satisfactory completion of all conditions of the Order, we will close this case and place it in our inactive file.

If you have any questions, please contact Andrew Barienbrock of this office at (941) 332-6975. Your cooperation in resolving this case is appreciated.

Sincerely,


Margaret F. Highsmith
Director of
District Management

MFH/ARB/k1m

Enclosure

cc: Nona Schaffner (w/enclosure)
Bob Glenn (w/enclosure)

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION,)	IN THE OFFICE OF THE
)	SOUTH FLORIDA DISTRICT
Complainant,)	
)	
vs.)	OGC FILE NO. 97-0280-36-DW
)	
Useppa Island Utilities)	
Company Inc.)	
)	
Respondent.)	
<hr/>		

CONSENT ORDER

This Consent Order is made and entered into between the State of Florida Department of Environmental Protection ("Department") and Useppa Island Utilities Company Inc. ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes ("F.S."), and the rules promulgated thereunder, Florida Administrative Code (F.A.C.) Title 62. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a person within the meaning of Section 403.031(5), F.S.

3. Respondent is the owner and is responsible for the operation of the Useppa Island wastewater treatment plant, a 0.015 MGD extended aeration wastewater treatment facility ("Facility") with chlorinated effluent to an existing polishing pond and then to a single cell percolation pond. The Facility is located at latitude 26 39' 44" N, Longitude 82 12' 43" W.

4. The Respondent operates the Facility under Department permit No. FLA014494-268909 which expires on August 20, 2000.

5. Respondent has violated Florida Administrative Code (F.A.C.) Rule 62-600.440(4)b which requires a chlorine residual of at least 0.5 milligrams per liter (mg/L) to be maintained after at least 15 minutes contact time at peak hourly flow. During the Department inspection on November 7, 1996 and on January 2, 1997 a Chlorine residual reading was determined at the point of discharge in the chlorine contact chamber. The reading indicated a chlorine residual of 0.0 and 0.1 mg/L.

6. Respondent has violated F.A.C. Rule 62-600.440(4)(c)4 which requires any one sample to not exceed 800 fecal coliform colonies per 100 ml of sample. During the Department January 2, 1997 inspection a fecal coliform grab sample was taken. The Sample results of the fecal coliform analysis was 60,000 fecal coliform colonies per 100 ml.

7. Respondent has violated F.A.C. Rule 62-600.740(1)(b)1.d. which requires any reclaimed water of effluent grab sample of total suspended solids (TSS) to not exceed 60 mg/L. During the Department January 2, 1997 inspection a TSS sample was taken. The sample result indicated that the TSS concentration was 575 mg/L.

8. Respondent has violated F.A.C. Rule 62-600.740(2)(a) which states that the release or disposal of excreta, sewage, or other wastewater or domestic wastewater residuals without providing proper treatment is prohibited. During the Department inspection on November 7, 1996 wastewater residuals were found on the ground around the chlorine contact chamber and around the aeration tanks.

9. Respondent has violated F.A.C. Rule 62-600.410(6) which requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended. During the Department inspection on November 5, 1996 the facilities chlorine pump was not functioning, the polishing pond had a build up of sludge, and the majority of the facilities lift stations contain only one pump.

10. Having reached a resolution of the matter the Department and the Respondent mutually agree and it is

ORDERED:

11. Within five (5) days after the effective date of this Consent Order Respondent shall retain the services of a Florida professional engineer for the purpose of:

- a. Evaluating the subject Facility including the effluent disposal system and associated sewage collection system to discover the cause or causes of the noncompliance. This evaluation shall be submitted to the Department within 60 days of the effective date of this Order.
- b. Designing modifications of the Facility, effluent disposal system, and/or sewage collection systems to

ensure the Facility and effluent disposal system will function in full and consistent compliance with all applicable rules of the Department.

- c. Completing an application for a Department wastewater permit to construct the modifications listed in subparagraph b, above, if such a permit is required. This application shall be submitted within 60 days of the effective date of this Order.
- d. Overseeing the construction of any modifications to the Facility, effluent disposal system, or collection system.
- e. Submitting to the Department an engineer's certification of completion stating that the construction of modifications to the Facility, effluent disposal system, or collection system have been constructed in accordance with the provisions of the wastewater permit referenced in subparagraph c, above, if applicable.
- f. Contacting the Department's Domestic Waste Compliance Inspector by telephone or in person prior to the initiation of the treatment system evaluation listed in subparagraphs a and b, above.
- g. Providing all requested information in writing within thirty (30) days after receipt of such a request in the event the Department requires additional information in order to process the wastewater permit application listed in subparagraph c, above.

h. Respondent shall complete the construction of the sewage treatment modification referred to in paragraph 9.b., above, and submit an engineer's certification of completion to the Department within 120 days after the wastewater permit authorizing said construction is issued.

12. Every **calendar quarter** after the effective date of this Consent Order, Respondent shall submit **in writing** to the Department a report containing information concerning the status and progress of projects being completed under this Consent Order, information as to compliance or noncompliance with the applicable requirements of this Consent Order including construction requirements and effluent limitations, and any reasons for noncompliance. Such reports shall also include a projection of the work to be performed pursuant to this Consent Order during the following 12 month period. The reports shall be submitted to the Department within thirty **(30)** days following the end of the quarter.

13. Within 60 days of the effective date of this Consent Order, Respondent shall submit to the Department a detailed Operation and Maintenance Performance Report meeting all of the requirements of Chapter 62-600.735, F.A.C.

14. Within 60 days of the effective date of this Consent Order, Respondent shall submit an Initial Capacity Report for the Facility which meets all the requirements of Chapter 62-600.405, F.A.C.

15. In the event of a sale or conveyance of the Facility or of the property upon which the Facility is located, if all of the

Requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the property or Facility, (1) notify the Department of such sale or conveyance, (2) provide the name and address of the purchaser, or operator, or person(s) in control of the Facility, and (3) provide a copy of this Consent Order with all attachments to the new owner. The sale or conveyance of the Facility, or the property upon which the Facility is located shall not relieve the Respondent of the obligations imposed in this Consent Order.

16. Within sixty (60) days of execution of this Consent Order, Respondent shall pay the Department \$3620.00 in settlement of the matters addressed in this Consent Order. This amount includes \$3120.00 in civil penalties for alleged violations of Section 403.161, F.S., and of the Department's rules and \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. The first payment of \$1810.00 is due August 20, 1997. The second equal installment shall be made by September 20, 1997. Payment shall be made by cashier's check or money order. The instrument shall be made payable to "The Department of Environmental Protection" and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to the Department of Environmental Protection, 2295 Victoria Avenue, Suite 364 Fort Myers, Florida 33901-3881.

17. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day

Respondent fails to timely comply with any of the requirements of paragraphs 11-16 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, 2295 Victoria Avenue, Suite 364 Fort Myers, Florida 33901-3881. The Department may make demands for payment at any time after violations occur. Nothing in this Paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Consent Order. Any penalties assessed under this Paragraph shall be in addition to the settlement sum agreed to in Paragraph 14 of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this Paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this Paragraph.

18. If any event, including administrative or judicial challenges by third parties unrelated to the Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered

circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

19. Persons who are not parties to this Consent Order, but whose substantial interests are affected by this Consent Order, have a right, pursuant to Section 120.569 and 120.57, F.S., to petition for an administrative hearing on it. The Petition must

contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399 3000 within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office 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 hearing pursuant to Section 120.569 and 120.57, F.S.

The petition shall contain the following information:

(a) The name, address, and telephone number of each petitioner; the Department's Consent Order 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 Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (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 Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

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 Consent Order 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 pursuant to 60Q-2.010, F.A.C.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573 before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filled a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS #35, Tallahassee, Florida 32399-3000,

the same deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

(a) The names, addresses, and telephone numbers of any persons who may attend the mediation;

(b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selection a mediator within a specified time;

(c) The agreed allocation of the costs and fees associated with the mediation;

(d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;

(e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;

(f) The name of each party's representative who shall have authority to settle or recommend settlement; and

(g) Either an explanation of how the substantial interests of each mediating party will affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference.

(h) The signatures of all parties or their authorized representatives.

As provided in section 120.573 of the Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by sections 120.569 and 120.57 for requesting and holding an administrative hearing. Unless

Otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57 remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

20. In addition to routine annual inspections, Respondent shall allow all authorized representatives of the Department access to the property and Facility at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules of the Department.

21. All plans, applications, penalties, stipulated penalties, costs and expenses, and information required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, 2295 Victoria Avenue, Suite 364 Fort Myers, Florida 33901-3881.

22. This Consent Order is a settlement of the violations alleged by the Department in Paragraphs 5 through 9, above,

pursuant to the Department's civil and administrative authority under Chapters 403 and 376, F.S. This Consent Order does not address settlement of any criminal liabilities which may arise from Sections 403.161(3) through (5), 403.413(5), 403.727(3)(b), 376.302(3) and (4), or 376.3071(10), F.S., nor does it address settlement of any violation which may be prosecuted criminally or civilly under federal law.

23. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

24. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), F.S.

25. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations through the date of the filing of this Consent Order as outlined in this Consent Order.

26. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per offense, and criminal penalties.

27. Entry of this Consent Order does not relieve Respondent of the need to comply with any and all applicable federal, state or local laws, regulations or ordinances.

28. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their directors, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.

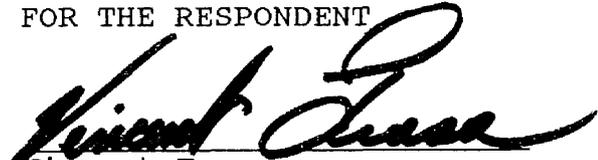
29. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.

30. Respondent acknowledges but waives its right to an administrative hearing pursuant to Section 120.569 and 120.57, F.S., on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, F.S., but waives that right upon signing this Consent Order.

31. This Consent Order is a final order of the Department pursuant to Section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for and Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

32. This Consent Order is final agency action of the Department pursuant to Section 120.52(11), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT


Vincent Formosa
Vice President

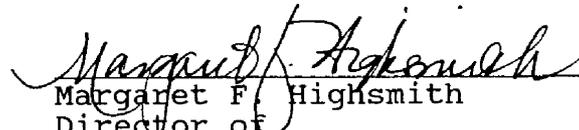
DONE AND ORDERED this 14th day of July, 1997, in Fort Myers, Florida.

FILING AND ACKNOWLEDGEMENT
FILED, on this date, pursuant to S 120.52
Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


CLERK

7-14-97
DATE


Margaret F. Highsmith
Director of
District Management

MFH/ARB/dd

Copies furnished to:

David Thulman
Bob Glenn



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
Post Office Box 2549
Fort Myers, FL 33902-2549
(931) 332-6975

Virginia B. Wetherell
Secretary

June 8, 1998

Useppa Island Utility Company
Vincent Formosa
P.O. Box 640
Bokellia, FL 33922

Re: Lee County - DW
Useppa Island WWTP
OGC Case No. 97-0280-36

Dear Mr. Formosa:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. A field inspection of the above referenced facility on April 29, 1998 indicates that violations of Florida Statutes (F.S.) and Rules may exist at the above described facility.

Department personnel observed the following at the facility:

1. During the inspection a total suspended solids (TSS) grab sample was taken. The sample result indicated that the TSS concentration was 223 milligrams per liter (mg/L). Florida Administrative Code (F.A.C.) Rule 62-600.740(1)(b)1.d. requires any reclaimed water or effluent grab sample to not exceed 60 mg/L.
2. During the inspection a fecal coliform grab sample was taken. The sample result of the fecal coliform analysis was 9000 fecal coliform colonies per 100 milliliters (ml). F.A.C. Rule 62-600.440(4)(c)4. requires any one sample to not exceed 800 fecal coliform colonies per 100 ml of sample.
3. The chlorine contact chamber has an accumulation of sludge which may increase the facility's potential for a total suspended solids violation and reduce the required disinfection time. F.A.C. Rule 62-600.410(6) requires that all facilities and

Continued . . .

equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.

4. The facility's newly constructed sludge drying bed was found to be overloaded with solids. The on-site operator is unable to remove any solids from the treatment process due to this condition. As a result, solids carry over into the effluent disposal ponds when hydraulic surges impact the treatment process. The Department requests that monthly trucking of all residuals proceed until a permanent solution can be implemented. F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.
5. The percolation pond has a build-up of sludge which may interfere with its ability to properly function. F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.
6. A review of the facility's 1998 Discharge Monitoring Reports indicates that the three-month average daily flow for January through March is greater than 120 percent of the permitted capacity. The past and present effluent violations at the facility may be directly related to the high volume of flow entering the facility. F.A.C. Rule 62-600.405(3) states that when the three-month average daily flow for the most recent three consecutive months exceeds 50 percent of the permitted capacity of the treatment plant and disposal systems the permittee shall submit to the Department a capacity analysis report. In addition F.A.C. Rule 62-600.405(8)(d) requires that if the initial capacity analysis report or an update of the capacity analysis report documents that the permitted capacity will be equaled or exceeded within the next six months, the permittee shall submit to the Department an application for an operation permit for the expanded facility. The operation permit application shall be submitted no later than the submittal of the initial capacity analysis report or the update of the capacity analysis report.

The activities observed during the Department's field inspection and any activity at the facility that may be contributing to violations of the above described statutes and rules should be ceased.

Continued activities at the facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties up to \$10,000 per violation per day, pursuant to Sections 403.141 and 403.161, F.S.

Vincent Formosa
June 8, 1998
Page 3

Please contact **Keith Kleinmann** at (941) 332-6975 or at the letterhead address within 15 days of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

PLEASE BE ADVISED that this Warning Letter is a part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), F.S. We look forward to your cooperation in completing the investigation and resolution of this matter

Sincerely,



Margaret F. Highsmith
Director of
District Management

MFH/KK/klm

cc: Mel Reinhart
Walter McCarthy
Ted Davis PSC
John Armstrong



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

September 14, 2001

Mr. Vincent Formosa, President
Useppa Island Utility Company
P.O. Box 640
Bokeelia, Fl 33922

Re: Lee County - DW
Useppa WWTP
FLA014494

Dear Mr. Formosa:

A field inspection of the above referenced WWTP on July 10, 2001 indicates that you may be in violation of Chapter 403, Florida Statutes and the rules promulgated thereunder. The resulting observations are listed below:

1. **During the inspection, wastewater was leaking from the fourth aeration basin.** Florida Administrative Code (F.A.C.) Rule 62-600.740(2)(a) states that the release or disposal of excreta, sewage, or other wastewaters or domestic wastewater residuals without providing proper treatment is prohibited.
2. **During the inspection, numerous cracks were observed on the outside surface of the concrete aeration basins.** F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.
2. **During the inspection, several lift stations were not locked.** Florida Administrative Code (F.A.C.) Rule 62-600.410(8) states that in the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affect neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modifications of the treatment plant) shall be taken by the permittee. Other corrective action may be required to ensure compliance with rules of the Department.

Continued . . .

"More Protection, Less Process"

Mr. Vincent Formosa, President
September 14, 2001
Page Two

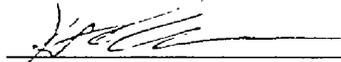
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You are advised that any activity that may contribute to violations of the above described statutes and rules should cease immediately. Continued operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties pursuant to Sections 403.141 and 403.161, Florida Statutes.

Please notify the Department in writing within fifteen (15) days as to what actions you intend to take in order to address these deficiencies.

If you have any questions, please do not hesitate to call **Tylah Bumpous at (941) 332-6975, ext. 108**. Your cooperation is appreciated.

Sincerely,


Keith Kleinmann
Environmental Manager

KK/TB/cap

cc: Wayne Wampler



Jeb Bush
Governor

de
**Department of
Environmental Protection**

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

FILE

David B. Struhs
Secretary

September 17, 2002

Mr. Vincent Formosa, President
Useppa Island Utilities
8115 Market Street
Bokeelia, FL 33922

Re: Lee County-DW
Useppa WWTP
FLA014494
Caloosahatchee to Lee Coast

Dear Mr. Formosa:

A review of Department files indicates that you may be in violation of Chapter 403, Florida Statutes and the rules promulgated thereunder. The resulting observations are listed below:

A review of the July 2002 Discharge Monitoring Report (DMR), indicated that the sample results for nitrate was reported as 18.9 mg/L. A review of the August 2002 DMR indicated that the sample results for nitrate was reported as 20.4 mg/L. F.A.C. Rule 62-610.510(1) states that at a minimum, preapplication waste treatment shall result in a reclaimed water meeting secondary treatment and basic disinfection levels prior to spreading into the rapid infiltration basins or absorption field system. The nitrate concentration in the applied reclaimed water shall not exceed 12 mg/L (as nitrogen) unless reasonable assurance is provided in the engineering report that nitrate as measured in any hydraulically down-gradient monitoring well located at the edge of the zone of discharge established in accordance with Rule 62-522.600, F.A.C., will not exceed 10 mg/L or background levels in the receiving ground water, whichever is less stringent. Design nitrate content of the reclaimed water prior to reuse shall be established by the permittee subject to Department approval. Additional treatment may be required as a result of the pond location, subsurface drainage, and hydraulic loading rate provisions contained below.

Continued . . .

"More Protection, Less Process"

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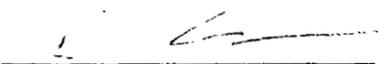
Mr. Vincent Formosa, President
September 17, 2002
Page Two

You are advised that any activity that may contribute to violations of the above described statutes and rules should cease immediately. Continued operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties pursuant to Sections 403.141 and 403.161, Florida Statutes.

Please notify the Department in writing within fifteen (15) days as to what actions you intend to take in order to address this deficiency.

If you have any questions, please do not hesitate to call **Tylah Bumpous** at (239) 332-6975, ext. 108. Your cooperation is appreciated.

Sincerely,



Keith Kleinmann
Environmental Manager

KK/TB/cap



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

February 13, 2003

David B. Struhs
Secretary

Mr. Vincent Formosa, President
Useppa Island Utilities
8115 Market Street
Bokeelia, FL 33922

Re: Lee County-DW
Useppa WWTP
FLA014494
Caloosahatchee to Lee Coast

Dear Mr. Formosa:

A field inspection of the above referenced facility indicates that you may be in violation of Chapter 403, Florida Statutes and the rules promulgated thereunder. The resulting observations are listed below: Department personnel observed the following:

During the inspection, the concrete basins were found leaking. Florida Administrative Code (F.A.C.) Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended. F.A.C. Rule 62-600.410(8) states that in the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affect neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modifications of the treatment plant) shall be taken by the permittee. Other corrective action may be required to ensure compliance with rules of the Department.

You are advised that any activity that may contribute to violations of the above described statutes and rules should cease immediately. Continued operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties pursuant to Sections 403.141 and 403.161, Florida Statutes.

Please notify the Department in writing within fifteen (15) days as to what actions you intend to take in order to address this deficiency.

If you have any questions, please do not hesitate to call **Tylah Johnson** at (239) 332-6975, ext. 108. Your cooperation is appreciated.

Sincerely,

Keith Kleinmann
Environmental Manager

KK/TAJ/cap

"More Protection, Less Process"

Printed on recycled paper

EXHIBIT ____ (LBB-25)

July 3rd, 1998:

Letter from Useppa Island

to Lee County Building Dept

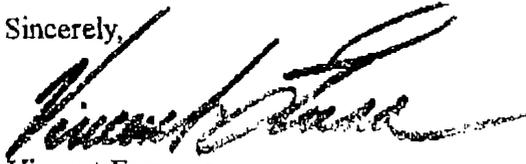
re. building moratorium on Useppa Island

pending completion of plant improvements and modifications.

It is my strong feeling that the Lee County Government should take immediate actions to reverse the decision recently made regarding the application of new building permits. I would recommend that a more appropriate resolution to this problem is the issuance of new construction permits, however there would be no Certificate of Occupancy Certifications issued on the new construction permits until the Wastewater Treatment Plant is within compliance limitations. This action is more appropriate since Lee County is effectively managing this situation by allowing the construction process to continue during the critical island construction period while not contributing to the problem at hand. In the meantime, Useppa Utilities will have completed their plant expansion that is scheduled for completion within the next 120 to 180 days. By the way, on average the construction period for the average home on Useppa is approximately one year from the time of permit issuance.

Your consideration and attention to this matter of utmost importance is greatly appreciated. If I can be of assistance or provide further information, please do not hesitate to contact me directly.

Sincerely,



Vincent Formosa
President & General Manager

CC: Russell Schropp, P.A.
Andy Barienbrock

EXHIBIT ____ (LBB-26)

Index and Assorted Letters and Reports
from the Florida Department of Environmental Protection
to Knight Island Utility, Inc.
indicating a variety of non-compliance issues
from October 6th, 1987 through May 31st, 2002.

Docket No. 020745-SU

EXHIBIT LBB-26

INDEX OF ASSORTED LETTERS AND REPORTS

BETWEEN THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

AND KNIGHT ISLAND UTILITY, INC. [OWNER, DEAN BECKSTEAD]

INDICATING A VARIETY OF NON-COMPLIANCE ISSUES

DATING FROM OCTOBER 6TH, 1987 THROUGH MAY 31ST, 2002

1. October 6th, 1987: DEP letter re. lack of adequate visits to facility.
2. April 17th, 1989: DEP letter re. code compliance for use of chlorine gas.
3. February 7th, 1990: DEP letter re: expiration of permit 5-24-90.
4. May 14th, 1990: DEP post-inspection warning letter re. influent line leak, operator lack of adequate visits, no log book.
5. June 5th, 1990: DEP letter re: general permit does not qualify for seaside sanitary sewer system.
6. October 22nd, 1990: DEP post-inspection warning letter re. thickened solids, annual sludge analysis, blower not working, backflow preventor required, incomplete log book.
7. April 15th, 1991: DEP post-inspection warning letter re. diffuser missing, poor treatment of solids, excessive solids, no chlorine residual, no log book, no backflow preventor, high grass over drainfield, monthly operating report for February not submitted.

8. April 25th, 1991: Florida DEP post-inspection warning letter re. 9 distinct non-compliance issues.
9. June 7th, 1991: Florida DEP post-inspection warning letter re. no chlorine residual, no backflow preventor, grass needs mowing more often, operator needs to provide more details.
10. June 21st, 1991: Florida DEP post-inspection warning letter re. no backflow preventor, operator discussed ideas for improving chlorination system, trash in chlorine contact chamber.
11. January 27th, 1992: Florida DEP non-compliance letter re. lack of current residual analysis.
12. April 14th, 1994: Florida DEP non-compliance letter re. wastewater discharging onto ground.
13. March 24th, 1995: Florida DEP letter re. operations permit renewal plus post-inspection warnings including effluent bypassing filters, questions on corrective actions, plant filters need cleaning, filter backwash water supply contained suspended solids.
14. July 31st, 1996: Letter from Gueltzow Utilities to DEP re. blockage in collection system and correction.
15. December 3rd, 1998: Florida DEP non-compliance letter re. fecal coliform result, DMRs late.
16. August 25th, 1999: Florida DEP non-compliance letter re. sewage odor, clarifier had sludge.

17. February 26th, 2001: Complaint letter from Donald C. Hock to Knight Island Utilities re. sewage emissions.
18. March 20th, 2001: Complaint letter from Donald C. Hock to County Board of Health re. sewage emissions.
19. May 31st, 2002: Florida DEP non-compliance letter re. wastewater residuals sent to Myakka Ranch, RAS line leaking, clarifier crusted with sludge, skimmer return clogged with solids, chlorine pump inoperable, strong odor, logbook missing entries, chlorine reading problem.

Palm Island Village

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

SOUTH FLORIDA DISTRICT

2269 BAY STREET
FORT MYERS, FLORIDA 33901-2896
(813)332-2667



BOB MARTINEZ
GOVERNOR
DALE TWACHTMANN
SECRETARY
PHILIP R. EDWARDS
DISTRICT MANAGER

October 6, 1987

Mr. James C. Blue
6215-32nd Avenue East
Bradenton, Florida 33508

RE: Charlotte County - DW
Various WWTP

Dear Mr. Blue:

It has come to our attention that you visit Knight Island Utilities Wastewater Treatment Plant only once a week. As per Florida Administrative Code Rule 17-16.370(3)(c), Knight Island Utilities should be visited five days per week with a weekend visit. We realize that flow thru the plant is seasonal and not near its capacity, but we can not accept a once a week visitation. Three nonconsecutive visits a week would satisfy this office.

In addition, operating reports for Vizcaya Lakes have not been received for the months of April and May 1987.

If you have any questions, feel free in calling me at 813/332-2667. Your cooperation is greatly appreciated.

Sincerely,

Charles Emery III

Charles Emery III
Environmental Specialist
Enforcement

CE/lis



Florida Department of Environmental Regulation

South District • 2269 Bay Street • Fort Myers, Florida 33901-2896 • 813-332-2667

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary
Philip Edwards, Deputy Assistant Secretary

April 17, 1989

John W. Matz, V.P.
Island Harbor Utilities
7092 Placida Road
Cape Haze, Florida 33946

Re: Charlotte County - DW
Island Harbor Utilities

Dear Mr. Matz:

A review of our files indicates that your domestic waste facility utilizes chlorine gas for disinfection. All facilities utilizing chlorine gas must be in compliance with all applicable Florida Administrative Code Rules and Statutes.

The following is a list of items that are required at all facilities utilizing chlorine gas:

1. Scales for weighing cylinders shall be provided at all plants using chlorine gas. At large plants, scales of the indicating and recording type are recommended. At least a corrosion resistant platform scale shall be provided.
2. A bottle of 56% ammonium hydroxide solution shall be available for detecting chlorine leaks.
3. All chlorine bottles shall be secured, located on concrete pads, and protected from the elements (i.e., a canopy cover is sufficient).
4. If gas chlorination equipment is to be secured in a specific housing then that room is to be separated from other activities and utilized only for chlorination purposes. If this room is located within a larger building, the room must be gas-tight, shall have no floor drains connected to other rooms, have doors which open out and equipped with panic bars and be located on a ground floor.

Continued. . . .



Florida Department of Environmental Regulation

Southwest District • 4520 Oak Fair Boulevard • Tampa, Florida 33610-7347 • 813-623-5561

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary
Dr. Richard Garrity, Deputy Assistant Secretary

February 7, 1990
Charlotte County

Mr. John Mutz
Island Harbor Utility
7092 Placida Road
Cape Haze, FL 33946

Re: Island Harbor Utility
First Notice
Expired Operating Permit

Dear Mutz:

A review of our files has failure that your Permit No. DO08-103548 will expire 5/24/90.

Operation of a pollution source without a valid permit from the Department of Environmental Regulation constitutes a violation of Section 17-04.03, Florida Administrative Code, and Section 403.161, Florida Statutes.

Section 17-4.090 further states: "Prior to sixty (60) days before the expiration of any Department permit, the permittee shall apply for a renewal of a permit on forms and in a manner prescribed by the Department."

If you wish to continue operation of the permitted facility, it will be necessary for you to make application (on attached Form 17-1.205(4) to the Department before 3/24/90. The Processing Fee is \$100.00.

Sincerely,

Joe Squitieri
Environmental Specialist
Domestic Waste

JS/db
attachment
pc: File



Florida Department of Environmental Regulation

Southwest District • 4520 Oak Fair Boulevard • Tampa, Florida 33610-7347 • 813-623-5561

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary
Richard Garrity, Deputy Assistant Secretary

May 14, 1990
Charlotte County - DW

Mr. John Matz, Vice President
Island Harbor Utilities, Inc.
7092 Placida Road
Cape Haze, Fl 33946

Re: Island Harbor Utilities WWTP
Permit #DO08-177723

Dear Mr. Matz:

The sewage treatment plant at the above referenced location was inspected on April 17 and 26, 1990 and the following areas found to require corrective action:

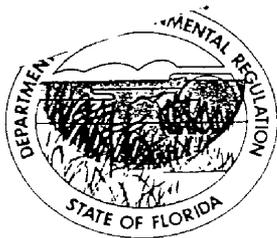
1. The influent line to the plant is leaking on the ground and there is excessive splashing from the influent pipe on the surface of the treatment plant. This is apparently due to a broken bolt on the cover of the influent splash box. This must be corrected.
2. A Florida-certified operator, class "C" or better, must be on-site five days per week for 1/2 hour per day and a weekend visit.
3. A log book should be kept on site to monitor the daily activities of the certified operator. This log should contain sign in/out times, maintenance accomplished, signature and certification number.

You are hereby requested to respond to this letter with the plans you have made to correct this situation. This response should be in writing and within twenty (20) days from receipt of this letter. Please indicate a time frame for compliance as the Department plans a follow-up verification inspection.

Sincerely,

William T. Washburn
Permitting Engineer
Venice Satellite Office

WTW/db



Florida Department of Environmental Regulation

Southwest District • 4520 Oak Fair Boulevard • Tampa, Florida 33610-7347 • 813-623-5561

Bob Martinez, Governor

Dale Twachtman, Secretary

John Shearer, Assistant Secretary

Dr. Richard Garrity, Deputy Assistant Secretary

June 5, 1990

Mr. John W. Matz
Vice President
Knight Island Utilities
7092 Placida Road
Cape Haze, FL 33946

Re: Seaside Notice of Intent to Use the General
Permit for Wastewater Collection System
CS08-181001

Dear Mr. Matz:

This is to notify you that you do not qualify to use the general permit for the Seaside sanitary sewer system, pursuant to your submittal received 5/22/90. The general permit requirements are specified in Sections 17-4.540 and 17-604.700, Florida Administrative Code, and your submittal does not qualify for the following reasons:

The receiving wastewater treatment plant, Island Harbor, is committed to treat flows which far exceed the design capacity of the plant. In order to receive permits for new connections to this plant, you will have to either apply for and receive a construction permit for plant expansion or demonstrate that the commitments on file for the plant may be sufficiently reduced to accommodate this project.

Persons whose substantial interests are affected by this notice have a right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative determination (hearing) on it. The petition must conform to the requirements of Chapters 17-103 and 28-5.201, F.A.C., and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within fourteen (14) days of receipt of this notice. Failure to file a petition within fourteen (14) days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, Florida Statutes. This notice is final and effective on the date filed with the Clerk of the Department unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition and conforms to Rule 17-103.070, F.A.C. Upon timely filing of a petition or a request for an extension of time, this notice will not be effective until further Order of the Department.



Florida Department of Environmental Regulation

Southwest District • 4520 Oak Fair Boulevard • Tampa, Florida 33610-7347 • 813-623-5561

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary

October 22, 1990

Richard Garnty, Deputy Assistant Secretary

Charlotte County-DW

Mr. John Matz
Vice President
Island Harbor Utilities, Inc.
7092 Placida Road
Cape Haze, FL 33946

Re: Island Harbor WWTP
Permit No. D008-177723

Dear Mr. Matz:

The sewage treatment plant at the above referenced location was inspected on October 19, 1990 and the following areas were found to require corrective action:

1. Thickened solids in the digester should be removed and disposed of properly before the season starts. The digester was crusted with solid material. Please discuss this with your operator.
2. Specific Condition No 6 of your permit requires a sludge analysis to be done annually. As of this date no analysis results have been submitted. The last sludge analysis in our files is dated 9/18/89. If you have a copy of a more recent analysis, please provide to the Department. ✓
3. Blower #1 was not working at the time of the inspection.
4. A backflow preventor is required on all potable water supply lines.
5. The operator should include all maintenance performed, including wasting, in the log book, and complete all other entries required by Florida Administrative Code.
6. I have included a transfer form for your convenience if you wish to change the permit holder from Island Harbor Utilities to Knight Island Utilities.

You are hereby requested to respond to this letter with the plans you have made to correct this situation. This response should be in writing and within twenty (20) days from receipt of this letter. Please indicate a time frame for compliance as the Department plans a follow-up verification inspection.

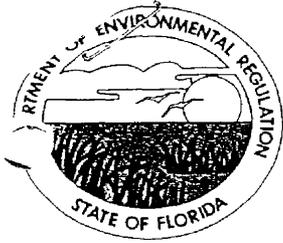
Sincerely,


William T. Washburn
Permitting Engineer
Domestic Waste Section

WTW/db

Enclosure

pc: Jim Blue Utilities, Operator of Record



Florida Department of Environmental Regulation

Southwest District

Lawton Chiles Governor

4520 Oak Fair Boulevard

813-623-5561

Tampa, Florida 33610-7347

Carol M. Browner Secretary

April 25, 1991

Mr. Dean Beckstead, President
Island Harbor Utilities, Inc.
7092 Placida Road
Cape Haze, FL 33946

Charlotte County - DW

RE: Island Harbor WWTP
Permit No. D008-177723

Dear Mr. Beckstead:

The sewage treatment plant at the above referenced location was inspected on April 23, 1991 and the following areas were found to require corrective action:

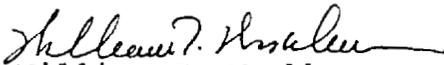
1. One diffuser is missing on the No. 1 aeration basin.
2. The clarifiers had poor settleability of solids indicating poor treatment.
3. Excessive solids in the stilling well.
4. No detectable chlorine residual was found during the inspection. You must improve the chlorine system currently in use to provide the minimum required level of 0.5 mg.L at all times.
5. The log book could not be found. A log book should be kept on site to monitor the daily activities of the certified operator. This log should contain sign in/out times, maintenance accomplished, signature and certification number.
6. There is no "Reduced Pressure Zone" (RPZ) backflow preventer on the potable waterline supplying the wastewater treatment plant.
7. Area over the drainfield should be mowed.
8. Monthly Operating Report for February 1991 was not submitted as required.

Mr. Dean Beckstead, President
DO08-177723
Page 2

9. Recent discussions with your former vice-president, Mr. Matz, indicated Island Harbor Utilities had been replaced as a legal entity by Knight Island Utilities. However your last application listed Island Harbor as applicant and Mr. Matz as agent/officer and the permit is carried in that name. I am enclosing a permit transfer form for your execution, along with Mr. Matz, to correct this situation and remove Mr. Matz and Island Harbor from any future permit liabilities. Upon receipt we shall issue the appropriate permit modification.

Your plant was rated unsatisfactory due to lack of disinfection, and solids in clarifier. You are hereby requested to respond to this letter with the plans you have made to correct this situation. This response should be in writing and within twenty (20) days from receipt of this letter. Please indicate a time frame for compliance as the Department plans a follow-up verification inspection.

Sincerely,


William T. Washburn
Permitting Engineer

WTW/kln

cc: Jim Blue Utilities, Operator of Record



Florida Department of Environmental Regulation

Southwest District • 4520 Oak Fair Boulevard • Tampa, Florida 33610-7347
Lawton Chiles, Governor 813-623-5561 Carol M. Browner, Secretary

June 7, 1991

Mr. Dean Beckstead, President
Island Harbor Utilities, Inc.
7092 Placida Road
Cape Haze, FL 33946

Charlotte County - DW

RE: Island Harbor WWTP
Permit No. D008-177723

Dear Mr. Beckstead:

The sewage treatment plant at the above referenced location was re-inspected on June 5, 1991. The plant rating remains unsatisfactory. The following areas were found to require corrective action:

1. No detectable chlorine residual was found during the inspection. You must improve the chlorine system currently in use to provide the minimum required level of 0.5 mg.L at all times. It was noted that the chlorination pump had been replaced. However, there was still no residual chlorine present.
2. Excessive trash in the chlorine contact chamber.
3. There is no "Reduced Pressure Zone" (RPZ) backflow preventer on the potable waterline supplying the wastewater treatment plant. The vacuum breaker is not satisfactory. I explained the requirement to your maintenance director.
4. The grass around the plant needs mowing on a more regular basis.
5. Please have your operator provide detailed information on the filter cycles, backwash times and schedule.

You are hereby requested to respond to this letter with the plans you have made to correct this situation. This response should be in writing and within twenty (20) days from receipt of this letter. Please indicate a time frame for compliance as the Department plans a follow-up verification inspection.

Sincerely,

William T. Washburn
William T. Washburn
Permitting Engineer
Punta Gorda Office

WTW/kln

cc: Jim Blue Utilities, Operator of Record



Florida Department of Environmental Regulation

Southwest District • 4520 Oak Fair Boulevard • Tampa, Florida 33610-7347

Lawton Chiles Governor

813-623-5561

Carol M. Browner Secretary

June 21, 1991
Charlotte County-DW

Mr. Dean Beckstead, President
Island Harbor Utilities, Inc.
7092 Placida Road
Cape Haze, FL 33946

Re: Island Harbor WWTP
Permit No. DO08-177723

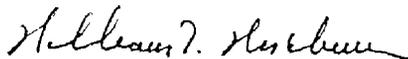
Dear Mr. Beckstead:

The sewage treatment plant at the above referenced location was re-inspected on June 12, 1991. The plant was rated satisfactory. However, the following areas were found to require corrective action:

1. There is no "Reduced Pressure Zone" (RPZ) backflow preventer on the potable waterline supplying the wastewater treatment plant. The vacuum breaker is not satisfactory.
2. I met your operator on-site and we discussed several ideas he had for improving your chlorination system. I have no objection to him re-routing the CL_2 system to make it more effective and efficient. He and I also thoroughly discussed the filtration system and he demonstrated its use and sequencing.
3. There was still trash in the chlorine contact chamber, although, the operator has been retrieving it by scooping out with the sieve when he can reach it. Your chlorine chamber may need pumped down for a thorough cleaning because you cannot afford for that trash to be carried into your drainfield. It appears the only way the trash could have gotten in is by the bypass from the splitter box or by blowing in the top opening. The top openings should both be covered and the splitter box bypass should only be used in an emergency, since it bypasses all filtration.

You are hereby requested to respond to this letter with the plans you have made to correct this situation. This response should be in writing and within twenty (20) days from receipt of this letter. Please indicate a time frame for compliance as the Department plans a follow-up verification inspection.

Sincerely,


William T. Washburn
Permitting Engineer

WTW/db

cc: Jim Blue Utilities, Inc., Operator of Record



Florida Department of Environmental Regulation

South District
Lawton Chiles, Governor

2269 Bay Street

Fort Myers, Florida 33901-2896

Carol M. Browner, Secretary

FILE

January 27, 1992

Mr. Dean Beckstead, President
Island Harbor Utilities, Inc.
7092 Placida Road
Cape Haze, FL 33946

Re: Charlotte County - DW
Island Harbor Utilities WWTP
Residual (Sludge) Analysis
Permit No.: D008-177723

Dear Mr. Beckstead:

Your wastewater treatment facility is a type III facility and requires residual analysis to be performed annually. A review of our records indicates the most recent analysis is September 20, 1990. This is not in compliance with Florida Administrative Code (F.A.C.) Rule 17-7.540(2)(a) and/or 17-640.700(1)(a).

You shall submit an analysis as soon as possible and no later than 60 days from the receipt of this letter and annually thereafter. The residual sample for this facility is to be taken from the digester and shall be collected as specified in F.A.C. Rule 17-7.540(2)(3).

If you have submitted a recent residual analysis, please forward a copy of it to the Department.

Samples shall be analyzed and reported for the parameters as follows:

Parameter	Reported	Parameter	Reported
Total nitrogen	% dry wt.	Lead	mg/kg dry wt.
Total phosphorus	% dry wt.	Nickel	mg/kg dry wt.
Total potassium	% dry wt.	Zinc	mg/kg dry wt.
Cadmium	mg/kg dry wt.	pH	Standard Units
Copper	mg/kg dry wt.	Total Solids	%

If for any reason compliance to the aforementioned time schedule cannot be met and/or if you have any questions, please contact Winston Anderson of this office at (813) 332-6975.

Sincerely,

Philip R. Edwards
Director of
District Management

PRE/WA/dd

the addressee,
this receipt
3 B/



Florida Department of **ENVIRONMENTAL** PROTECTION

Lawton Chiles
Governor

South District
2295 Victoria Avenue
Fort Myers, Florida 33901

Virginia B. Wetherell
Secretary

April 14, 1994

CERTIFIED MAIL NO. Z 128 059 174
RETURN RECEIPT REQUESTED

John Matz, Vice President
Island Harbor Utilities, Inc.
Cape Haze, FL 33946

Re: Charlotte County - DW
Island Harbor Utilities WWTP

Dear Mr. Matz:

A field inspection of Island Harbor Utilities wastewater treatment plant (WWTP) on March 31, 1994 indicates that you may be in violation of Chapter 403, Florida Statutes and the rules promulgated thereunder. The following observations are listed below:

Observations indicated wastewater was discharging onto adjacent ground surfaces from the filter tank/backflow tank. Florida Administrative Code Rule 17-600.740(2)(a) prohibits the release of wastewater without providing proper treatment approved by the Department.

Department records indicate that the Department was not notified during this time period of any malfunctions. F.A.C. Rule 17-600.750(1) states in the event the permittee of any treatment plant, reuse, or disposal system is temporarily unable to comply with any of the conditions of a permit due to breakdown of equipment, power outages, destruction by hazard of fire, wind, or by other cause, the permittee shall notify the Department within 24 hours by telephone, or by telegraph.

You are advised that any activity that may contribute to violations of the above described statutes and rules should cease immediately. Continued operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties pursuant to Sections 403.141 and 403.161, Florida Statutes.

You are requested to contact Keith Kleinmann at this office at 2295 Victoria Avenue, Fort Myers, Florida ~~33901~~ within 15 days of receipt of this Warning Notice to arrange a meeting with the

Continued . . .

Department personnel to discuss the issues raised in this Warning Notice. You may wish to contact an attorney and to have the attorney attend this meeting.

PLEASE BE ADVISED that this warning letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. The purpose of this letter is to advise you of potential violations and to set up a meeting to discuss possible resolutions to any potential violations that have occurred for which you may be responsible. If the Department determines that an enforcement proceeding should be initiated in this case, it may be initiated by issuing a Notice of Violation or by filing a judicial action in accordance with Section 403.121, Florida Statutes. If the Department issues a Notice of Violation, and you are named as a party, you will be informed of your rights to contest any determination made by the Department in the Notice of Violation. The Department can also resolve violations through entry into a Consent Order.

If you have any questions, please do not hesitate to call Keith Kleinmann at (813) 332-6975. Your cooperation is appreciated.

Sincerely,



Ronald D. Blackburn
Acting Director of
District Management

RDB/KK/dd

cc: Jim Blue Utilities, Inc.



Department of Environmental Protection

FILE

Lawton Chiles
Governor

South District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901

Virginia B. Wetherell
Secretary

March 24, 1995

Dean Beckstead, President
Knight Island Utilities
7092 Placida Road
Cape Haze, Florida 33946

*Island Harbor
Utilities*

Re: Charlotte County - DW
Knight Island Utilities
W.W.T.P.
Application # 266544

Dear Mr. Beckstead:

This letter acknowledges receipt of your operations permit renewal application for the referenced wastewater treatment facility. However, the application is incomplete and additional information is needed to further process it.

A site inspection was conducted by the Department on March 21, 1995 and the following items were noted:

1. The effluent flow from the clarifier was bypassing the filters and going directly to the chlorine contact/dosing chamber. The chamber contained floatable material that needs to be removed. Bypassing the filters may result in plugging up the absorption beds (drainfields) if the reclaimed water is not maintained free from solids.
2. Since the chlorine contact chamber is also being utilized as an absorption field dosing tank, what potential exists for short circuiting chlorine contact disinfection retention time requirements? What corrective action should be taken and when to assure short circuiting does not occur?
3. Plant filters need to be cleaned and utilized.
4. The filter backwash water supply appeared turbid and contained suspended solids. Is the filter process system functioning and being utilized as designed? If not, please make necessary repairs and place into operation as intended.
5. Please identify where reclaimed water samples are being taken for facility compliance.

Continued . . .

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

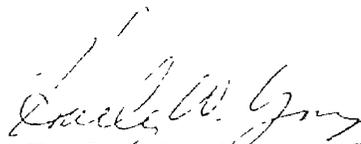
6. Are the absorption beds being loaded and rested on a predetermined schedule? If so, please provide the schedule being followed.

Review of the submitted application and supporting materials requires that additional information be submitted as noted:

1. All safety and process related items identified in the operation and maintenance performance report submitted by the engineer need to be addressed in a timely manner and the Department notified when completed.
2. Please provide documentation that the agricultural use plan site is a Department of Environmental Protection approved site by the respective District office it is located in.
3. Please provide a sample copy of the generator's annual summary report for residual application at the Schroeder Manatee Ranch.
4. Please submit a copy of the document and format to be followed for the aerobic digestion residual stabilization process identified. Aerobic digestion process parameters, solids retention time and product quality parameters. (Pathogenic and vector attraction) need to be documented to provide assurance residuals are stabilized.

The referenced permit application remains incomplete until the items noted above are adequately addressed and received by the Department.

Sincerely,



Harley W. Young, P.E.
Water Facilities Section Manager

HWY/MHR/klm

cc: Robert J. Halbach
Joe Gueltzow
Dale Beter, FDEP

GUELTZOW UTILITIES

439 43796

P. O. Box 20104
Bradenton, FL 34203
(813) 746-5737

Dept. of Environmental Regulation
Attn: Mr. Keith Klienman
2295 Victoria Ave.
Suite 364
Ft. Myers, Florida 33901

July 31, 1996

Re: Knight Island
Utility

Mr. Klienman,

This letter is about our telephone conversation on July 31, 1996 regarding the Knight Island Utility Wastewater Treatment Facility.

There was a blockage in the collection system that caused a small amount of sewage to over flow from a manhole. Hydrated lime was put on the spill, and Martin Septic Tank pumped and cleaned out the line.

If you should have any further questions regarding this please contact me.

Sincerely,


Joe Gueltzow

cc Knight Island Utility

RECEIVED

AUG 08 1996

G.E.E. South District



Lawton Chiles
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

Virginia B. Wetherell
Secretary

December 3, 1998

Dean Beckstead, President
Knight Island Utilities
7092 Placida Road
Cape Haze, Florida 33946

Re: Charlotte County - DW
Knight Island Utilities
FLA014095-266544

Dear Mr. Beckstead:

A file review of the above referenced WWTP indicates that you may be in violation of Chapter 403, Florida Statutes and the rules promulgated thereunder. The resulting observations are listed below:

1. The December 1997 Discharge Monitoring Report (DMR) for the above referenced facility indicates a fecal coliform result of >60 colonies/100mL sample. The Department regards this as to numerous to count (TNTC). Florida Administrative Code (F.A.C.) Rule 62-600.440(4)(c)4. and specific condition I.A.4. of the above referenced permit states that any one sample shall not exceed 800 fecal coliform values per 100 mL of sample.
2. The January, April, July and August 1998 DMRs for the above referenced facility were not submitted in a timely manner. Florida Administrative Code (F.A.C.) Rule 62-601.300(1)(b) requires that Parts A and B of DEP Form 62-620.910(10) be submitted in a timely manner so as to be received by the appropriate District Office of the Department by the 28th of the month following the month of operation.

Please note that 17-Florida Administrative Code, (F.A.C.) Rules have been renumbered to 62-F.A.C. effective August 10, 1994. The content of 17-F.A.C./62-F.A.C. rules remain the same.

You are advised that any activity that may contribute to violations of the above described statutes and rules should cease immediately. Continued operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties pursuant to Sections 403.141 and 403.161, Florida Statutes.

The South District Office has changed its mailing address to more effectively serve you. Our new address is Florida Department of Environmental Protection, P O Box 2549, Fort Myers, FL 33902-2549

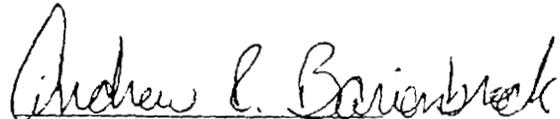
Continued

12-3-98
For deliveries requiring a street address, please continue to use 2295 Victoria Avenue, Suite 364,
Fort Myers, FL 33901-3881.

Please notify the Department in writing within fifteen (15) days as to what actions you intend to take in order to address these deficiencies.

If you have any questions, please do not hesitate to call Mark Johnson at (941) 332-6975. Your cooperation is appreciated.

Sincerely,


Andrew R. Barienbrock
Environmental Manager

ARB/MFJ/jmo

cc: Joe Gueltzow



Jeb Bush
Governor

Department of Environmental Protection

FILE

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

August 25, 1999

Knight Island Utilities
Dean Beckstead, President
7092 Placida Road
Cape Haze, FL 33946

Re: Charlotte County - DW
Palm Island/ Knight Island WWTP
FLA014095

Dear Mr. Beckstead:

A field inspection of the above referenced WWTP on August 17, 1999 indicates that you may be in violation of Chapter 403, Florida Statutes and the rules promulgated thereunder. The resulting observations are listed below:

1. A strong sewage odor was detected emanating from the wastewater treatment plant. Florida Administrative Code (F.A.C.) Rule 62-600.410 (8) states that in the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affect the neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modification of the treatment plant) shall be taken by the permittee. Other corrective action may be required to ensure compliance with the rules of the Department.
2. The clarifier contained thickened sludge on the surface. There was no effluent water observed going over the weir due to the large amount of sludge in the clarifier. The flow meter was not recording onto paper as it is designed. There was a broken pipe in the center of the drainfield adjacent to the rear of the facility. F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.

Continued . . .

"More Protection, Less Process"

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Mr. Dean Beckstead
August 25, 1999
Page Two

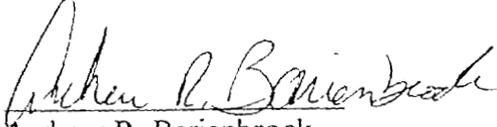
3. A substantial leak was observed in a pipe under the chlorine contact chamber and mud well basins. F.A.C. Rule 62-600.740(2)(a) states that the release or disposal of excreta, sewage, or other wastewaters or domestic wastewater residuals without providing proper treatment is prohibited
4. The operator log book indicates that residuals were hauled on January 28, 1999. There was no record indicating that the residuals had received proper stabilization. F.A.C. Rule 62-640.600(1)B and (2)A state that residuals will be classified as Class B if one of the pathogen reduction requirements described in section 503.32(b) is met, and that all residuals applied to land shall meet one of the vector attraction reduction requirements in section 503.32(b)(11) and section 503.33(b)(12).
5. A test of the Total Residual Chlorine was performed at the time of inspection. A value of 0.47 for Total Residual Chlorine was obtained. This value is considered marginal. Florida Administrative Code (F.A.C.) Rule 62-600.440(4)b requires a total chlorine residual of at least 0.5 mg/L to be maintained after at least 15 minutes contact time at peak hourly flow.

You are advised that any activity that may contribute to violations of the above described statutes and rules should cease immediately. Continued operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties pursuant to Sections 403.141 and 403.161, Florida Statutes.

Please notify the Department in writing within fifteen (15) days as to what actions you intend to take in order to address these deficiencies.

If you have any questions, please do not hesitate to call **Jennifer Ricks** at (941) 332-6975 ext. 176. Your cooperation is appreciated.

Sincerely,


Andrew R. Brienbrock
Environmental Manager

ARB/JJR/klm
cc: Joe Gueltzow

Copy

P.O. Box 3115
Placida, Fl. 33946-3115
February 26, 2001

Knight Island Utilities
Palm Island Resort
7092 Placida Road
Placida, Fl. 33946

Dear Sirs:

Your sewerage system has a serious defect which you have, to date, not corrected in spite of my calls to you for correctional action.

You have a junction box (or some construction) situated on lot 10 of Island Harbor Beach Club, Section I. This contrivance consistently overflows, emitting raw sewerage, which pools above the ground resulting in a serious health problem and causing a disagreeable stench. While it must have been doing this for some time, it was first called to my attention in October 2000 by the crew constructing my house.. I immediately made calls to Palm Island Maintenance Manager, Mr. Griffith, The Palm Island Resort General Manager, Mr. Dunham, and to the Association Manager, Mr. Joy, asking for this situation to be corrected. No correction seemed to be forthcoming, as it continued to periodically overflow. In early January, the situation was extremely gross, and some action was taken, but it turned out to be a "jury-rigged" fix. On 24 February, the system again overflowed. I was told that the new pumps needed to accomplish a "fix" had not come in. Incredible! Why is the situation still uncorrected after five months of trying to get some permanent corrective action?

I have requested you to correct the problem without escalating it to outside sources. I now believe I need to go outside the Palm Island Resort, Charlotte Harbor Land and Knight Island Utility Companies to get the problem solved. I must inform you that I have an artificial heart valve. If bacteria were to attach to my prosthesis, dire consequences would result. I believe the situation to be very serious.

Therefore, because no effective solutions have been tendered after this extended period, I will give you no more than two weeks to respond with a documented solution path and an acceptable time to complete. If a satisfactory response is not forthcoming by 14 March, I shall seek help from outside sources to get the problem corrected.

Yours truly,

Donald C. Hock

APR 10 2001

FEB 28 2001

CLERK South District

Copy

P.O.Box 3115
Placida, Fl. 33946-3115
March 20, 2001

Charlotte County Department of Health
Environmental Health
6868 San Casa Road
Englewood, Fl. 34224

Dear Sir:

I am the owner of a piece of property located in the Palm Island Resort Complex. The Knight Island Utility Company has a device or catch basin located on my property which periodically overflows spewing out raw sewerage. It was first brought to my attention early last October by the crew who were building my house. Since then I have been appealing to Palm Island management to correct the situation. Some fixes were made and the situation has improved somewhat. However the fixes to date appear to not entirely correct the situation, as this device still emits fluids, the last being in late February and again in March. The February spillage prompted me to write the attached letter (sent by certified mail return receipt) to Knight Island Utilities, in which I asked them for a solution and a timetable for completion of the needed corrective action. To date they have not attempted to contact me or provide any response to my letter

I believe the health hazard imposed, not only to me, but to other owners and guests of the resort should receive some attention. Therefore I am requesting your assistance in critically reviewing the Knight Island sewer system as it exists on Palm Island Resort to identify any needed corrective actions.

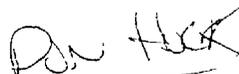
Yours truly,



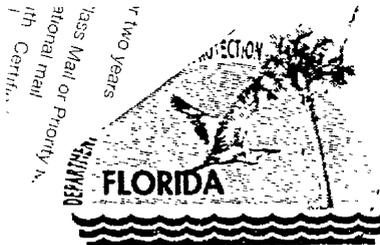
Donald C. Hock
Ph. 941-697-3756

Attachment

Letter to Knight Island Utilities dtd Feb, 26, 2001


697-3756
PALM ISLAND
RESORT

SEARCHED
SERIALIZED
INDEXED
FILED



Department of Environmental Protection

FILE

Jeb Bush
Governor

South District
P.O. Box 2549
Fort Myers, Florida 33902-2549

David B. Struhs
Secretary

May 31, 2002

CERTIFIED MAIL NO.: 7001 2510 0001 0874 1595
RETURN RECEIPT REQUESTED

Mr. Dean Beckstead, President
Knight Island Utilities
7092 Placida Road
Cape Haze, FL 33946

Re: Charlotte County - DW
Knight Island Utilities WWTP
FLA014095
Caloosahatchee Lee Coast EMA

Dear Mr. Beckstead:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. A file review and a field inspection of the above referenced facility on April 4, 2002 indicate that violations of Florida Statutes (F.S.) and Rules may exist at the above-described facility.

A file review and an April 2, 2002 inspection indicate the following:

1. **The Department has not received a response for the correspondence dated January 23, 2002 which states that during the period from March 17, 2000 to October 25, 2001, forty-eight thousand (48,000) gallons of wastewater residuals from the above referenced facility were applied to Myakka Ranch. Myakka Ranch is not a permitted residuals application site for the above referenced facility. Rule 62-640.300(1), Florida Administrative Code (F.A.C.) states that residuals shall be applied to an application site only if the facility generating or treating the residuals has a valid Department permit that includes an approved Agricultural Use Plan for the site.**
2. **During the April 2, 2002 inspection, Department personnel observed:**
 - 1) **the RAS line in the clarifier was leaking and not functioning as intended;**
 - 2) **the clarifier was crusted over with an approximate 2-foot layer of floating sludge;**
 - 3) **the skimmer return was completely clogged with solids; and**
 - 4) **the chlorine pump was inoperable.**

F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.

3. **During the April 2, 2002 inspection, Department personnel observed wastewater leaking from the wastewater treatment plant structure at the effluent pipes and in between the filters. F.A.C. Rule 62-600.740(2)(a) states that the release or disposal of excreta, sewage, or other wastewaters or domestic wastewater residuals without providing proper treatment is prohibited.**

Continued . . .

"More Protection, Less Process"

Printed on recycled paper

4. **During the inspection, Department personnel detected a strong sewage odor emanating from the wastewater treatment plant.** F.A.C. Rule 62-600.410 (8) states that in the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affect the neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modification of the treatment plant) shall be taken by the permittee. Other corrective action may be required to ensure compliance with the rules of the Department.
5. **During the inspection, Department personnel observed that the logbook was not a hardbound book and did not contain any entries from March 31, 2002 to April 2, 2002.** F.A.C 62-602.650(4) states that the operator shall maintain operation and maintenance logs for each plant, on site in a location accessible to 24-hour inspection, protected from weather damage, and current to the last operation and maintenance performed. The logs shall be maintained in **hard bound books** with consecutive page numbering, and shall contain a minimum of three months of data at all times. Alternative logs or partial electronic logging are acceptable if approved by the appropriate Department district office or the local regulatory agency. The logs shall contain:(a) Identification of the plant;(b) The signature and license number of the operator and the signature of the persons making any entries;(c) Date and time in and out;(d) Specific operation and maintenance activities;(e) Tests performed and samples taken, unless documented on a laboratory sheet, and any repairs made.(f) Performance of preventive maintenance and repairs or requests for repair of the equipment.
6. **During the inspection a chlorine residual reading was determined at the point of discharge in the chlorine contact chamber. The reading indicated a chlorine residual of 0.00 milligrams per liter (mg/L).** F.A.C. Rule 62-600.440(4)b requires a total chlorine residual of at least 0.5 mg/L to be maintained after at least 15 minutes contact time at peak hourly flow.

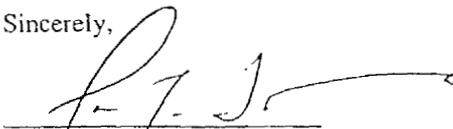
The activities observed during the Department's field inspection and any activity at the facility that may be contributing to violations of the above described statutes and rules should be ceased.

Continued activities at the facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties up to \$10,000 per violation per day, pursuant to Sections 403.141 and 403.161, F.S.

Your presence is required in a meeting that has been scheduled for June 11, 2002 at 10:00 a.m. at the DEP South District Office in Fort Myers. Please contact **Doug Wells** at (239) 332-6975, ext. 176 or at the letterhead address **within 15 days** of receipt of this Warning Letter to discuss this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

PLEASE BE ADVISED that this Warning Letter is a part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), F.S. We look forward to your cooperation in completing the investigation and resolution of this matter

Sincerely,



Richard W. Cantrell
Director of
District Management

RWC/KK/WDW/TEJ/cap
cc: Gueltzow Utilities
Elmore Septic
Mike Mylett

EXHIBIT ____ (LBB-27)

**EXAMPLE OF CHARLOTTE COUNTY'S POLICY
OF ABSORBING PRIVATE UTILITIES:**

Resolutions of the Charlotte County

Board of County Commissioners

that have been approved and not yet recorded,

expanding water and sewer districts

to include existing private utilities to be acquired.

RESOLUTION

NUMBER 2003-

A RESOLUTION OF THE CHARLOTTE COUNTY BOARD OF COUNTY COMMISSIONERS EXPANDING WATER AND SEWER DISTRICT NO. 1 TO INCLUDE THE DEEP CREEK UTILITY SYSTEM, AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the Board of County Commissioners of Charlotte County, Florida ("Board"), first established Water and Sewer District No. 1 on April 23, 1991, by Resolution No. 91-79; and

WHEREAS, the Board has determined it in the public interest to acquire Florida Water Services Corporation's Deep Creek utility system, with closing planned for December 2003; and

WHEREAS, the Board now desires to expand Water and Sewer District No. 1 to include the Deep Creek utility system.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida:

1. Charlotte County Water and Sewer District No. 1 is hereby expanded to include the Deep Creek utility system; the new District No. 1 is shown in Exhibit "A" attached to this Resolution and incorporated herein by reference.
2. This Resolution shall become effective on the date of closing for the Deep Creek utility system.

PASSED AND DULY ADOPTED this ____ day of _____, 2003.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By _____
Matthew D. DeBoer, Chairman

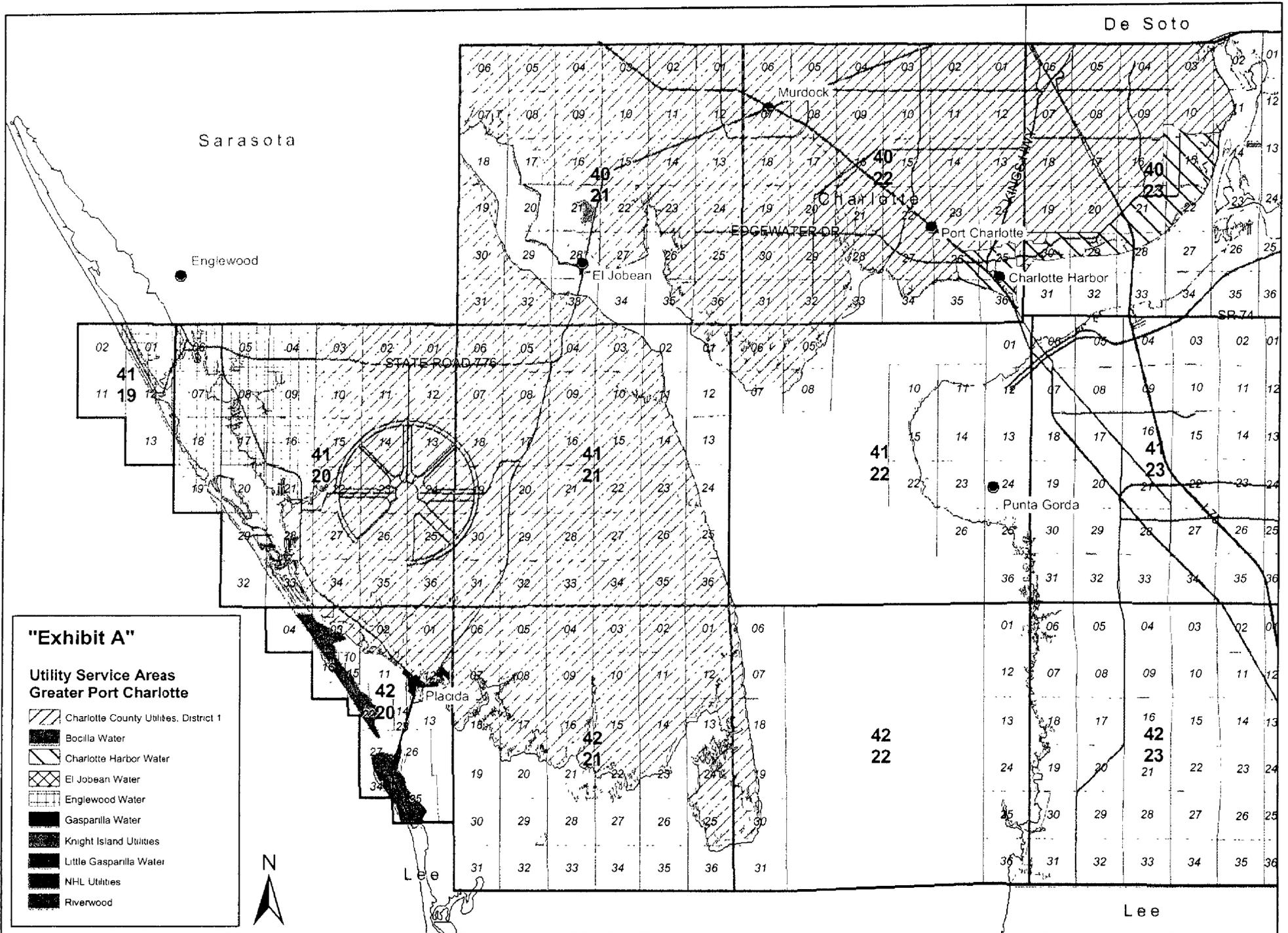
ATTEST:
Barbara T. Scott, Clerk of Circuit
Court and Ex-officio Clerk to the
Board of County Commissioners

By _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



Renée Francis Lee, County Attorney



"Exhibit A"

**Utility Service Areas
Greater Port Charlotte**

-  Charlotte County Utilities District 1
-  Bocilla Water
-  Charlotte Harbor Water
-  El Jobean Water
-  Englewood Water
-  Gasparilla Water
-  Knight Island Utilities
-  Little Gasparilla Water
-  NHL Utilities
-  Riverwood



RESOLUTION

NUMBER 2003-

A RESOLUTION ESTABLISHING THE CHARLOTTE COUNTY WATER AND SEWER DISTRICT NO. 2 AND SETTING FORTH THE BOUNDARIES THEREOF.

BE IT RESOLVED by the Board of County Commissioners of Charlotte County, Florida:

1. Pursuant to Chapter 153.08, Fla. Stat., the Charlotte County Board of County Commissioners hereby establishes the Charlotte County Water and Sewer District No. 2 to consist of all of the real property South of the Peace River in the unincorporated area of County, except those properties presently receiving water and sewer service from the City of Punta Gorda and the service area of Town and Country Utilities, Inc. The physical boundaries and outline of the Charlotte County Water and Sewer District No. 2 are set forth on Exhibit "A" attached to this resolution and incorporated herein by reference.

2. The Board of County Commissioners deems it necessary to create the Charlotte County Water and Sewer District No. 2 and to render fire protection to the inhabitants of the County residing within said District.

PASSED AND DULY ADOPTED this ____ day of _____, 2003.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By _____
Matthew D. DeBoer, Chairman

ATTEST:
Barbara T. Scott, Clerk of Circuit
Court and Ex-officio Clerk to the
Board of County Commissioners

By _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



Renée Francis Lee, County Attorney

"Exhibit A"

**Utility Service Areas
South County**

 Charlotte County Utilities, District 2
 City of Punta Gorda Utilities
 Town and Country Utility Co.

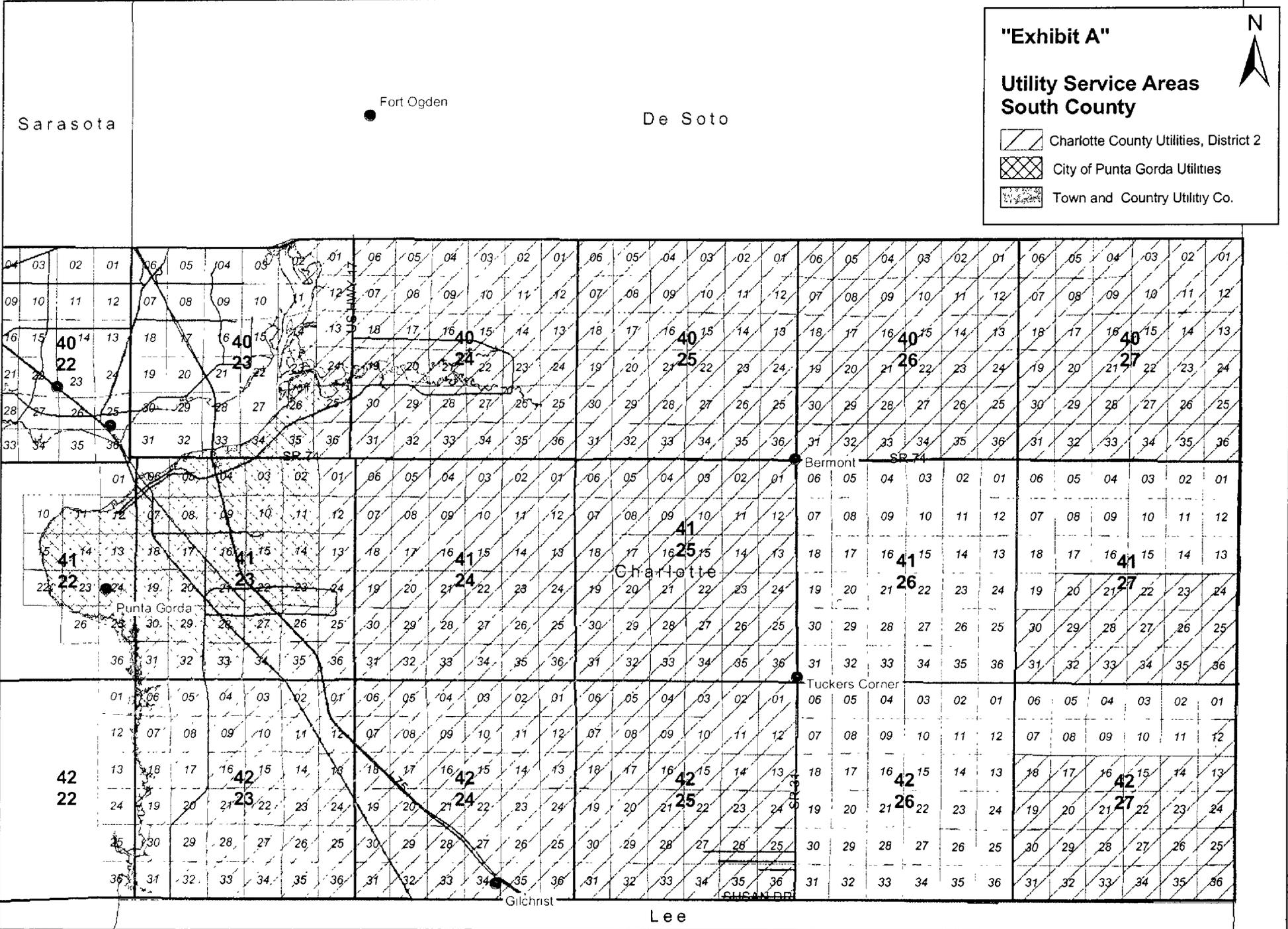


EXHIBIT ____ (LBB-28)

Charlotte County, Florida

Comprehensive Plan

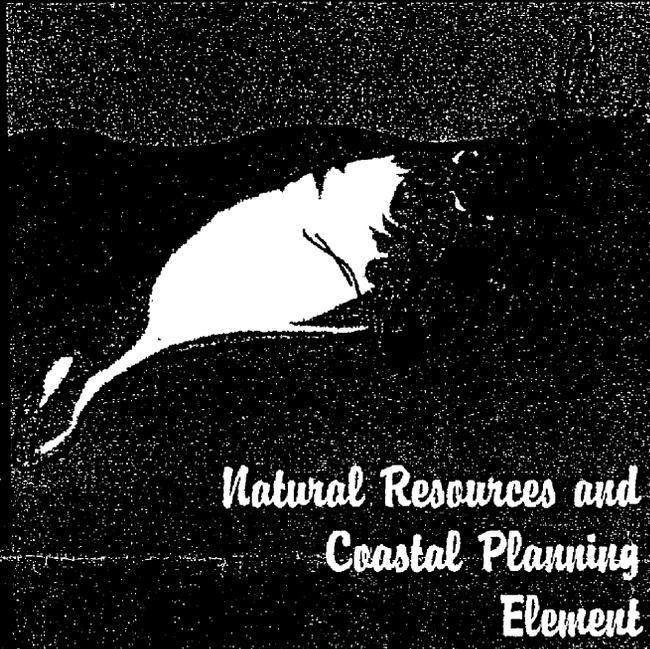
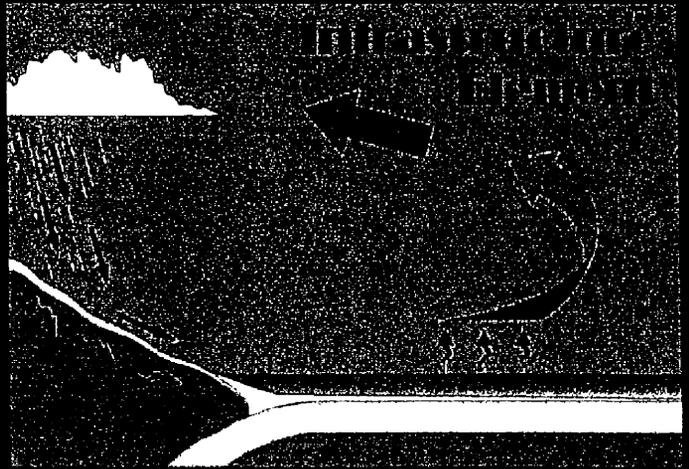
1997-2010

Volume 1, Chapters 1-4

Chapter 4

Infrastructure Element

Transportation
Element

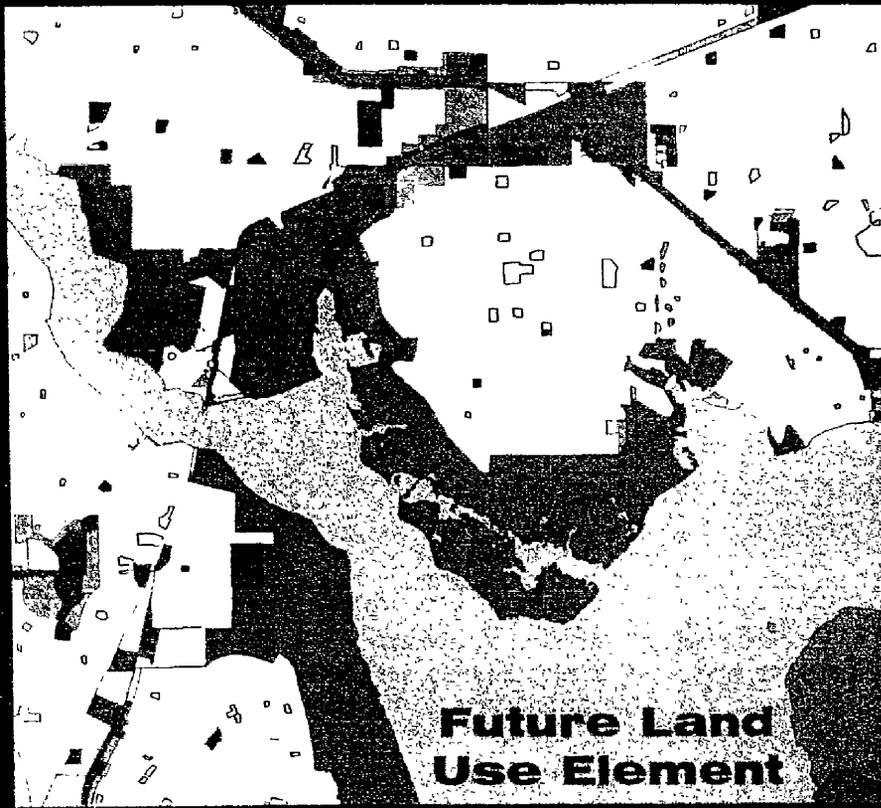


*Natural Resources and
Coastal Planning
Element*

Charlotte County, Florida

COMPREHENSIVE PLAN 1997-2010

Volume I, Chapters 1-4



**Future Land
Use Element**



Charlotte
County



Potable Water and Sanitary Sewer

Goal 9: Charlotte County will encourage public and private utility companies (utilities) to provide well-designed and economically efficient systems of potable water and sanitary sewer service that maximizes the use of existing facilities to meet the needs of a growing population, while protecting the natural environment.

Objective 9.1: Charlotte County and the utilities serving the county shall assure the provision of potable water and sanitary sewer services to new and existing development in conjunction with previously certificated areas and the Urban Service Area strategy through the planning timeframe of 2010.

Policy 9.1.1: Utilities are encouraged to extend central potable water and sanitary sewer services to Infill Areas in accordance with the Urban Service Area strategy. Such extensions will represent sequential extensions of service.

Policy 9.1.2: In the case of a utility which provides both central potable water and sanitary sewer service, the utility is encouraged to extend potable water and sanitary sewer lines concurrently. As an exception to this policy, lines may be extended separately if the service area is primarily composed of one type of service line and is located at a distance from which it would be economically inefficient to require concurrent extensions.

Policy 9.1.3: In the case of utilities which provide both central potable water and sanitary sewer service, the certificated area for one service will not be extended to an area unless the certificated area for the other service is also extended to the same location.

Policy 9.1.4: Certificated areas will not be extended or expanded for potable water or sanitary sewer service outside of Infill Area boundaries. Exceptions shall be made in the case of New Communities or Developments of Regional Impact in West County, Mid County, or South County or Rural Communities in East County; or in the case of where a utility(s) shall provide both central potable water and sanitary sewer service in a tandem manner within the Urban Service Area Overlay District.

Policy 9.1.5: Utilities which have an approved certification to provide service shall serve their approved areas in accordance with the certification.

EXHIBIT ___ (LBB-29)

Board of County Commissioners

Minutes of the Meeting July 8th, 2003

Agenda Item T-6

<http://www.charlottecountyfl.com/agendaarchive.htm>

[July 8, 2003]

(Assistant County Attorney Anne East replaced County Attorney René Francis Lee, Executive Assistant Joann Dillon replaced Executive Assistant Diane Gant and Deputy Clerk Karen S. Mitchell replaced Supervisor of Minutes Caroline W. Lounsbury for the remainder of the meeting.)

X. PLANNING AND ZONING AGENDA

T. 2:00 P.M. PETITIONS - LAND USE REDEVELOPMENT REGULATIONS AND REQUESTS

Rezoning

(This is a quasi-judicial hearing which requires disclosure of "ex-parte" communications and sworn testimony. Findings must meet the "substantial competent evidence" legal standard that the proposal is consistent with adopted policy. This allows cross-examination of witnesses and rebuttal.)

Agenda Item T-6, PA-02-11-44-LS (Proof of Publication was in Order.)

Elliot Kampert, AICP, Natural Resources Manager, said pursuant to yesterday's discussions at Pre-Agenda staff won't be discussing this item regarding the text amendments to the Infrastructure Element pertaining to the extension of sanitary sewer lines to the bridgeless barrier islands, this was based on concerns regarding possible density issues and construction of facilities on those islands and requested this item be delayed to a later time. **COMMISSIONER DEVOS MOVED TO DELAY AGENDA ITEM T-6 TO A FUTURE DATE, SECONDED BY COMMISSIONER CUMMINGS.** Chairman DeBoer said part of this was the growth issue, the Board supports central sewer collection, his research suggested one thing they could be exploring was purchase of that utility so the County controlled the growth and he hoped the County Administrator will make some overtures to the owners in this regard. **Commissioner Devos** said she wanted staff to bring back other possible options for them to discuss. **Commissioner Horton** summarized for staff that it appears the Board consensus was they've already passed the point for use of septic tanks out there, one concern with putting in central sewers was it would allow density to be increased which no one wants and if they were going to have a certified sewer area it should be on the

mainland controlled by the County. **Chairman DeBoer** opined the discussion needed to include the type of septic system imposed if they were going to be on septic, the density issue surrounds an interpretation of what a unit means which needs clarification through further research and possibly they need to adopt the definition of a unit, i.e., a unit being a single-family residential unit not a single building with 30 units. **Commissioner Devos** asked when this would be brought back. Mr. Kampert responded they could be prepared to bring something back within the second amendment window of 2003. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

Agenda Item T-1, PA-01-11-35-LS, District IV (Proof of Publication was in Order.)

Jorge Perez-Gutierrez, Planner II, explained the proposed large scale plan amendment would amend the Future Land Use Map (FLUM) from Low Density Residential for 85.9+ acres and Parks and Recreation for 21.08+ acres to Medium Density Residential; the 106.96+ acre site was located north of El Jobean Road, south of Trembly Avenue, east of Biscayne Drive and west of the East Fork Waterway; and the site has a Residential Single-Family 3.5 (RSF-3.5) zoning designation. Mr. Perez advised a Transfer of Development Rights (TDR) has been submitted with the plan amendment, the applicant seeks to increase the residential density of the site from 300 dwelling units to 828 dwelling units, to comply with the TDR ordinance the property will be rezoned to a Planned Development (PD) and the rezoning hearing was scheduled for August 2003. Mr. Perez clarified the accompanying TDR will remove 528 units of density from the Special Surface Water Overlay District and transfer it to the property, which was well served, by roads, emergency services and schools. Mr. Perez stated the Florida Department of Community Affairs (FDCA) was in receipt of the transmittal of this application and has issued no objections, recommendations or comments to this amendment; and the Planning and Zoning (P&Z) Board and staff recommend approval of the petition and the TDR application. Geri L. Waksler, Esq. with the law firm of Moore and Waksler, P.A., spoke on behalf of the applicant, commented on the problems she and staff had encountered while working on two large density transfers for the first time and thanked staff for all their patience. Attorney Waksler explained the density change was requested to allow the applicant to develop a planned