

**ORIGINAL
FILE COPY**

DOCKET NO.: 950495-WS - [Southern States Utilities, Inc. - South Forty Wastewater System, Chuluota Wastewater System, Florida Central/Commerce Wastewater System, Holiday Haven Wastewater System, Morningview Wastewater System, Sunshine Parkway Wastewater System, Venetian Village Wastewater System, Enterprise Utilities Wastewater System, Jungle Den Wastewater System, Sugar Mill Wastewater System, Buenaventura Lakes Wastewater System, University Shores Wastewater System, Citrus Park Wastewater System, Valencia Terrace Wastewater System, Salt Springs Wastewater System, Deltona Lakes Wastewater System]

WITNESS: Direct Testimony of Clarence C. Anderson, Jr., Florida Department of Environmental Protection, Appearing on Behalf of the Staff of the Florida Public Service Commission

DATE FILED: February 26, 1996

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FPSC-RECORDS/REPORTING

1 DIRECT TESTIMONY OF CLARENCE C. ANDERSON, JR.

2 Q. Please state your name and business address.

3 A. Clarence C. Anderson, Jr., Florida Department of Environmental
4 Protection, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803.

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

7 A. I have a B.S. in Chemistry and Mathematics. I worked for a consulting
8 engineer for 13 years and as a Chemist for a wastewater service company. I
9 am a licensed wastewater operator.

10 Q. By whom are you presently employed?

11 A. I am employed by the Florida Department of Environmental Protection
12 (FDEP).

13 Q. How long have you been employed with the FDEP and in what capacity?

14 A. I have been employed by FDEP for six and a half years as a wastewater
15 and industrial waste inspector.

16 Q. What are your general responsibilities at the FDEP?

17 A. My responsibility is domestic waste enforcement, handling enforcement
18 cases, warning letters and consent orders. I issue expiring permit letters.
19 I am responsible for the facility/permit database updates and entries.

20 Q. Are you familiar with the Southern States Utilities, Inc. wastewater
21 systems located in the Central District?

22 A. Yes.

23 Q. Were these systems inspected by you, or by FDEP staff?

24 A. I reviewed the files for the referenced facilities and consulted with
25 the inspector that conducted the last inspection.

1 South Forty Wastewater System

2 Q. Does the utility have current operating or construction permits from the
3 FDEP for South Forty Wastewater System (South Forty)?

4 A. Yes.

5 Q. Please state the issuance dates and the expiration dates of the
6 operating or construction permits.

7 A. The utility has permit FLA 010720, effective August 30, 1995 - August
8 15, 2000.

9 Q. Are the plants in compliance with FDEP issued permits?

10 A. Yes.

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

13 A. Yes.

14 Q. Are the treatment and disposal facilities located in accordance with
15 Rule 62-600, Florida Administrative Code?

16 A. Yes.

17 Q. Has the FDEP required the utility to take any action so as to minimize
18 possible adverse effects resulting from odors, noise, aerosol drift or
19 lighting?

20 A. No.

21 Q. Do the pump stations and lift stations meet FDEP requirements with
22 respect to location, reliability and safety?

23 A. Yes.

24 Q. Does the utility have certified operators as required by Rule 61E12-41,
25 Florida Administrative Code?

1 | A. Yes.

2 | Q. Is the overall maintenance of the treatment, collection, and disposal
3 | facilities satisfactory?

4 | A. Yes.

5 | Q. Does the facility meet the effluent disposal requirements of Rules
6 | 62-600 and 62-610, Florida Administrative Code?

7 | A. Yes.

8 | Q. Are the collection, treatment and disposal facilities in compliance with
9 | all the other provisions of Chapter 62, Florida Administrative Code, not
10 | previously mentioned?

11 | A. Yes.

12 | Q. Has South Forty wastewater system been the subject of any Department of
13 | Environmental Protection enforcement action within the past two years?

14 | A. No.

15 | Chuluota Wastewater System

16 | Q. Does the utility have current operating or construction permits from the
17 | FDEP for Chuluota Wastewater System (Chuluota)?

18 | A. Yes.

19 | Q. Please state the issuance dates and the expiration dates of the
20 | operating or construction permits.

21 | A. The utility has permit DO 59-187652, effective July 7, 1991 - February
22 | 16, 1996. We are processing a renewal (file 276133).

23 | Q. Are the plants in compliance with FDEP issued permits?

24 | A. No. The utility failed to submit monthly operating reports (MORs) and
25 | ground water (GW) monitoring data in a timely manner. SSU submitted MORs and

1 | GW monitoring data in response to a noncompliance letter. In our latest
2 | inspection, October 9, 1995, we noted extreme infiltration, which was causing
3 | hydraulic overload.

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

6 | A. Yes.

7 | Q. Are the treatment and disposal facilities located in accordance with
8 | Rule 62-600, Florida Administrative Code?

9 | A. Yes.

10 | Q. Has the FDEP required the utility to take any action so as to minimize
11 | possible adverse effects resulting from odors, noise, aerosol drift or
12 | lighting?

13 | A. No.

14 | Q. Do the pump stations and lift stations meet FDEP requirements with
15 | respect to location, reliability and safety?

16 | A. Yes.

17 | Q. Does the utility have certified operators as required by Rule 61E12-41,
18 | Florida Administrative Code?

19 | A. Yes.

20 | Q. Is the overall maintenance of the treatment, collection, and disposal
21 | facilities satisfactory?

22 | A. Yes.

23 | Q. Does the facility meet the effluent disposal requirements of Rules
24 | 62-600 and 62-610, Florida Administrative Code?

25 | A. Yes.

1 Q. Are the collection, treatment and disposal facilities in compliance with
2 all the other provisions of Chapter 62, Florida Administrative Code, not
3 previously mentioned?

4 A. Yes.

5 Q. Has Chuluota wastewater system been the subject of any FDEP enforcement
6 action within the past two years?

7 A. No.

8 Florida Central/Commerce Park Wastewater System

9 Q. Does the utility have current operating or construction permits from the
10 FDEP for Florida Central/Commerce Park Wastewater System (Florida
11 Central/Commerce Park)?

12 A. Yes.

13 Q. Please state the issuance dates and the expiration dates of the
14 operating or construction permits.

15 A. The utility has permit DO 59-195077, effective May 3, 1991 - May 1,
16 1996.

17 Q. Are the plants in compliance with FDEP issued permits?

18 A. Yes.

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

21 A. Yes.

22 Q. Are the treatment and disposal facilities located in accordance with
23 Rule 62-600, Florida Administrative Code?

24 A. Yes.

25 Q. Has the FDEP required the utility to take any action so as to minimize

1 possible adverse effects resulting from odors, noise, aerosol drift or
2 lighting?

3 A. No.

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

6 A. Yes.

7 Q. Does the utility have certified operators as required by Rule 61E12-41,
8 Florida Administrative Code?

9 A. Yes.

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

12 A. Yes.

13 Q. Does the facility meet the effluent disposal requirements of Rules
14 62-600 and 62-610, Florida Administrative Code?

15 A. Yes.

16 Q. Are the collection, treatment and disposal facilities in compliance with
17 all the other provisions of Chapter 62, Florida Administrative Code, not
18 previously mentioned?

19 A. Yes.

20 Q. Has Florida Central/Commerce Park wastewater system been the subject of
21 any Department of Environmental Protection enforcement action within the past
22 two years?

23 A. No.

24 Holiday Haven Wastewater System

25 Q. Does the utility have current operating or construction permits from the

1 FDEP for Holiday Haven Wastewater System (Holiday Haven)?
2 A. Yes.
3 Q. Please state the issuance dates and the expiration dates of the
4 operating or construction permits.
5 A. The utility has permit D0 35-223319, effective March 31, 1993 - July 30,
6 1995. We are processing a renewal (file 269985).
7 Q. Are the plants in compliance with FDEP issued permits?
8 A. Yes.
9 Q. Are the wastewater collection, treatment and disposal facilities
10 adequate to serve present customers based on permitted capacity?
11 A. Yes.
12 Q. Are the treatment and disposal facilities located in accordance with
13 Rule 62-600, Florida Administrative Code?
14 A. Yes.
15 Q. Has the FDEP required the utility to take any action so as to minimize
16 possible adverse effects resulting from odors, noise, aerosol drift or
17 lighting?
18 A. No.
19 Q. Do the pump stations and lift stations meet FDEP requirements with
20 respect to location, reliability and safety?
21 A. Yes.
22 Q. Does the utility have certified operators as required by Rule 61E12-41,
23 Florida Administrative Code?
24 A. Yes.
25 Q. Is the overall maintenance of the treatment, collection, and disposal

1 facilities satisfactory?

2 A. Yes.

3 Q. Does the facility meet the effluent disposal requirements of Rules
4 62-600 and 62-610, Florida Administrative Code?

5 A. Yes.

6 Q. Are the collection, treatment and disposal facilities in compliance with
7 all the other provisions of Chapter 62, Florida Administrative Code, not
8 previously mentioned?

9 A. Yes.

10 Q. Has Holiday Haven wastewater system been the subject of any FDEP
11 enforcement action within the past two years?

12 A. No.

13 Morningview Wastewater System

14 Q. Does the utility have current operating or construction permits from the
15 FDEP for Morningview Wastewater System (Morningview)?

16 A. Yes.

17 Q. Please state the issuance dates and the expiration dates of the
18 operating or construction permits.

19 A. The utility has permit DO 35-179425, effective July 12, 1990 - July 1,
20 1995. We are processing a renewal (file 269986).

21 Q. Are the plants in compliance with FDEP issued permits?

22 A. Yes.

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

25 A. Yes.

1 Q. Are the treatment and disposal facilities located in accordance with
2 Rule 62-600, Florida Administrative Code?
3 A. Yes.
4 Q. Has the FDEP required the utility to take any action so as to minimize
5 possible adverse effects resulting from odors, noise, aerosol drift or
6 lighting?
7 A. No.
8 Q. Do the pump stations and lift stations meet FDEP requirements with
9 respect to location, reliability and safety?
10 A. Yes.
11 Q. Does the utility have certified operators as required by Rule 61E12-41,
12 Florida Administrative Code?
13 A. Yes.
14 Q. Is the overall maintenance of the treatment, collection, and disposal
15 facilities satisfactory?
16 A. Yes.
17 Q. Does the facility meet the effluent disposal requirements of Rules
18 62-600 and 62-610, Florida Administrative Code?
19 A. Yes.
20 Q. Are the collection, treatment and disposal facilities in compliance with
21 all the other provisions of Chapter 62, Florida Administrative Code, not
22 previously mentioned?
23 A. Yes.
24 Q. Has Morningview wastewater system been the subject of any FDEP
25 enforcement action within the past two years?

1 A. No.

2 Sunshine Parkway Wastewater System

3 Q. Does the utility have current operating or construction permits from the
4 FDEP for Sunshine Parkway Wastewater System (Sunshine Parkway)?

5 A. Yes.

6 Q. Please state the issuance dates and the expiration dates of the
7 operating or construction permits.

8 A. The utility has permit DO 35-220437, effective September 22, 1993 -
9 September 8, 1998, and (NPDES) FL 0041017, effective July 5, 1994 - June 30,
10 1999. These permits have been consolidated in accordance with Rule 62-620,
11 Florida Administrative Code, and will expire September 8, 1998.

12 Q. Are the plants in compliance with FDEP issued permits?

13 A. Yes.

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

16 A. Yes.

17 Q. Are the treatment and disposal facilities located in accordance with
18 Rule 62-600, Florida Administrative Code?

19 A. Yes.

20 Q. Has the FDEP required the utility to take any action so as to minimize
21 possible adverse effects resulting from odors, noise, aerosol drift or
22 lighting?

23 A. No.

24 Q. Do the pump stations and lift stations meet FDEP requirements with
25 respect to location, reliability and safety?

1 A. Yes.

2 Q. Does the utility have certified operators as required by Rule 61E12-41,
3 Florida Administrative Code?

4 A. Yes.

5 Q. Is the overall maintenance of the treatment, collection, and disposal
6 facilities satisfactory?

7 A. Yes.

8 Q. Does the facility meet the effluent disposal requirements of Rules
9 62-600 and 62-610, Florida Administrative Code?

10 A. Yes.

11 Q. Are the collection, treatment and disposal facilities in compliance with
12 all the other provisions of Chapter 62, Florida Administrative Code, not
13 previously mentioned?

14 A. Yes.

15 Q. Has Sunshine Parkway wastewater system been the subject of any FDEP
16 enforcement action within the past two years?

17 A. No.

18 **Venetian Village Wastewater System**

19 Q. Does the utility have current operating or construction permits from the
20 FDEP for Venetian Village Wastewater System (Venetian Village)?

21 A. Yes.

22 Q. Please state the issuance dates and the expiration dates of the
23 operating or construction permits.

24 A. The utility has permit DO 35-247618, effective October 31, 1994 -
25 October 20, 1999.

1 Q. Are the plants in compliance with FDEP issued permits?
2 A. Yes.
3 Q. Are the wastewater collection, treatment and disposal facilities
4 adequate to serve present customers based on permitted capacity?
5 A. Yes.
6 Q. Are the treatment and disposal facilities located in accordance with
7 Rule 62-600, Florida Administrative Code?
8 A. Yes.
9 Q. Has the FDEP required the utility to take any action so as to minimize
10 possible adverse effects resulting from odors, noise, aerosol drift or
11 lighting?
12 A. No.
13 Q. Do the pump stations and lift stations meet FDEP requirements with
14 respect to location, reliability and safety?
15 A. Yes.
16 Q. Does the utility have certified operators as required by Rule 61E12-41,
17 Florida Administrative Code?
18 A. Yes.
19 Q. Is the overall maintenance of the treatment, collection, and disposal
20 facilities satisfactory?
21 A. Yes.
22 Q. Does the facility meet the effluent disposal requirements of Rules
23 62-600 and 62-610, Florida Administrative Code?
24 A. Yes.
25 Q. Are the collection, treatment and disposal facilities in compliance with

1 | all the other provisions of Chapter 62, Florida Administrative Code, not
2 | previously mentioned?

3 | A. Yes.

4 | Q. Has Venetian Village wastewater system been the subject of any FDEP
5 | enforcement action within the past two years?

6 | A. No.

7 | **Enterprise Utilities Wastewater System**

8 | Q. Does the utility have current operating or construction permits from the
9 | FDEP for Enterprise Utilities Wastewater System (Enterprise Utilities)?

10 | A. Yes.

11 | Q. Please state the issuance dates and the expiration dates of the
12 | operating or construction permits.

13 | A. The utility has permit DO 64-221990, effective September 7, 1993 -
14 | August 28, 1998.

15 | Q. Are the plants in compliance with FDEP issued permits?

16 | A. No. The utility needs to clean vegetation from the percolation pond.
17 | It may need to remove some accumulated sand from the pond also. The
18 | sprayfield is overgrown with vegetation and needs to be maintained regularly.

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

21 | A. No. The sprayfield disposal site is inadequate. It is in a low area
22 | and percolation is marginal. The utility will investigate the area for other
23 | sites. This problem would have been eliminated with connection to Deltona
24 | Lakes System. Infiltration is a problem in the collection system and
25 | contributes to the plant and disposal problems.

1 Q. Are the treatment and disposal facilities located in accordance with
2 Rule 62-600, Florida Administrative Code?
3 A. Yes.
4 Q. Has the FDEP required the utility to take any action so as to minimize
5 possible adverse effects resulting from odors, noise, aerosol drift or
6 lighting?
7 A. No.
8 Q. Do the pump stations and lift stations meet FDEP requirements with
9 respect to location, reliability and safety?
10 A. Yes.
11 Q. Does the utility have certified operators as required by Rule 61E12-41,
12 Florida Administrative Code?
13 A. Yes.
14 Q. Is the overall maintenance of the treatment, collection, and disposal
15 facilities satisfactory?
16 A. Yes.
17 Q. Does the facility meet the effluent disposal requirements of Rules
18 62-600 and 62-610, Florida Administrative Code?
19 A. Yes.
20 Q. Are the collection, treatment and disposal facilities in compliance with
21 all the other provisions of Chapter 62, Florida Administrative Code, not
22 previously mentioned?
23 A. Yes.
24 Q. Has Enterprise Utilities wastewater system been the subject of any
25 Department of Environmental Protection enforcement action within the past two

1 | years?

2 | A. Yes. The utility modified its collection system without FDEP approval,
3 | and failed to notify of abnormal event. FDEP has proposed a consent order
4 | requiring connection of the plant to Deltona Lakes and a substantial civil
5 | penalty. By letter dated October 11, 1995, the utility stated it cannot
6 | connect the plant to Deltona Lakes System due to financial restraints. That
7 | information is detailed in Exhibit CCA-1.

8 | **Jungle Den Wastewater System**

9 | Q. Does the utility have current operating or construction permits from the
10 | FDEP for Jungle Den Wastewater System (Jungle Den)?

11 | A. Yes.

12 | Q. Please state the issuance dates and the expiration dates of the
13 | operating or construction permits.

14 | A. The utility has permit FLA 011261, effective September 25, 1995 -
15 | September 20, 2000.

16 | Q. Are the plants in compliance with FDEP issued permits?

17 | A. Yes.

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

20 | A. Yes.

21 | Q. Are the treatment and disposal facilities located in accordance with
22 | Rule 62-600, Florida Administrative Code?

23 | A. Yes.

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

1 | lighting?

2 | A. No.

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

5 | A. Yes.

6 | Q. Does the utility have certified operators as required by Rule 61E12-41,
7 | Florida Administrative Code?

8 | A. Yes.

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

11 | A. Yes.

12 | Q. Does the facility meet the effluent disposal requirements of Rules
13 | 62-600 and 62-610, Florida Administrative Code?

14 | A. Yes.

15 | Q. Are the collection, treatment and disposal facilities in compliance with
16 | all the other provisions of Chapter 62, Florida Administrative Code, not
17 | previously mentioned?

18 | A. Yes.

19 | Q. Has Jungle Den wastewater system been the subject of any Department of
20 | Environmental Protection enforcement action within the past two years?

21 | A. No.

22 | **Sugar Mill Wastewater System**

23 | Q. Does the utility have current operating or construction permits from the
24 | FDEP for Sugar Mill Wastewater System (Sugar Mill)?

25 | A. Yes.

1 | Q. Please state the issuance dates and the expiration dates of the
2 | operating or construction permits.

3 | A. The utility has permit DO 64-213929, effective February 22, 1993 -
4 | February 8, 1998.

5 | Q. Are the plants in compliance with FDEP issued permits?

6 | A. Yes.

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

9 | A. Yes.

10 | Q. Are the treatment and disposal facilities located in accordance with
11 | Rule 62-600, Florida Administrative Code?

12 | A. Yes.

13 | Q. Has the FDEP required the utility to take any action so as to minimize
14 | possible adverse effects resulting from odors, noise, aerosol drift or
15 | lighting?

16 | A. No.

17 | Q. Do the pump stations and lift stations meet FDEP requirements with
18 | respect to location, reliability and safety?

19 | A. Yes.

20 | Q. Does the utility have certified operators as required by Rule 61E12-41,
21 | Florida Administrative Code?

22 | A. Yes.

23 | Q. Is the overall maintenance of the treatment, collection, and disposal
24 | facilities satisfactory?

25 | A. Yes.

1 Q. Does the facility meet the effluent disposal requirements of Rules
2 62-600 and 62-610, Florida Administrative Code?

3 A. Yes.

4 Q. Are the collection, treatment and disposal facilities in compliance with
5 all the other provisions of Chapter 62, Florida Administrative Code, not
6 previously mentioned?

7 A. Yes.

8 Q. Has Sugar Mill wastewater system been the subject of any FDEP
9 enforcement action within the past two years?

10 A. No.

11 **Buenaventura Lakes Wastewater System**

12 Note: SSU is not the owner/operator of this facility according to FDEP
13 records. SSU is anticipating purchasing the facility when the new permit is
14 issued. The current owner is Orange-Osceola Utilities.

15 Q. Does the utility have current operating or construction permits from the
16 FDEP for Buenaventura Lakes Wastewater System (Buenaventura Lakes)?

17 A. Yes.

18 Q. Please state the issuance dates and the expiration dates of the
19 operating or construction permits.

20 A. The utility has permits DO 49-216509, effective March 11, 1993 -
21 December 1, 1995; DO 49-174229, effective June 19, 1990 - June 1, 1995; and
22 NPDES FL 0039446, effective July 1, 1992 - April 30, 1997. We are processing
23 a renewal (file 268476). All permits have been consolidated; expired on June
24 1, 1995.

25 Q. Are the plants in compliance with FDEP issued permits?

1 | A. No. During an inspection conducted on December 22, 1994, no certified
2 | operator was present at the plant. A quarterly monitoring well report was not
3 | submitted. Effluent was being discharged without an operator present on-site.
4 | The permittee has corrected these deficiencies per letter dated January 26,
5 | 1995, renewed January 30, 1995.

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

8 | A. Yes.

9 | Q. Are the treatment and disposal facilities located in accordance with
10 | Rule 62-600, Florida Administrative Code?

11 | A. Yes.

12 | Q. Has the FDEP required the utility to take any action so as to minimize
13 | possible adverse effects resulting from odors, noise, aerosol drift or
14 | lighting?

15 | A. No.

16 | Q. Do the pump stations and lift stations meet FDEP requirements with
17 | respect to location, reliability and safety?

18 | A. Yes.

19 | Q. Does the utility have certified operators as required by Rule 61E12-41,
20 | Florida Administrative Code?

21 | A. Yes.

22 | Q. Is the overall maintenance of the treatment, collection, and disposal
23 | facilities satisfactory?

24 | A. Yes.

25 | Q. Does the facility meet the effluent disposal requirements of Rules

1 62-600 and 62-610, Florida Administrative Code?

2 A. Yes.

3 Q. Are the collection, treatment and disposal facilities in compliance with
4 all the other provisions of Chapter 62, Florida Administrative Code, not
5 previously mentioned?

6 A. Yes.

7 Q. Has Buenaventura Lakes wastewater system been the subject of any FDEP
8 enforcement action within the past two years?

9 A. No.

10 University Shores Wastewater System

11 Q. Does the utility have current operating or construction permits from the
12 FDEP for University Shores Wastewater System (University Shores)?

13 A. Yes.

14 Q. Please state the issuance dates and the expiration dates of the
15 operating or construction permits.

16 A. The utility has permits Stp. #1 AWT DO 48-187714, effective May 22, 1991
17 - May 10, 1996; NPDES FL 0024856, effective March 7, 1994 - March 28, 1999;
18 and Stp. #2 DO 48-193001, effective August 28, 1991 - August 16, 1996. The
19 permits have been consolidated in accordance with Rule 62-620, Florida
20 Administrative Code, and all expire on May 10, 1996.

21 Q. Are the plants in compliance with FDEP issued permits?

22 A. No. In an inspection conducted March 24, 1995, it was noted that: Stp.
23 #1 - flow meter needs calibrating, solids in clarifier and contact chamber
24 effluent, ponding of drainfield, exceeding plant and disposal area capacities,
25 MOR not submitted and ground water report not submitted. The utility made a

1 | satisfactory response dated April 26, 1995, and received May 10, 1995. It was
2 | further noted that: Stp. #2 - flows to plant and disposal sites exceed
3 | permitted capacities. Corrective actions for monitoring wells (MW) #5 and #8
4 | required. Disposal site capacity study will be submitted October 25, 1995.
5 | MWs #5 and #8 will be replaced by November 15, 1995. The utility provided
6 | submittal and replacement dates in its response dated April 26, 1995, received
7 | May 10, 1995.

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

10 | A. Yes.

11 | Q. Are the treatment and disposal facilities located in accordance with
12 | Rule 62-600, Florida Administrative Code?

13 | A. Yes.

14 | Q. Has the FDEP required the utility to take any action so as to minimize
15 | possible adverse effects resulting from odors, noise, aerosol drift or
16 | lighting?

17 | A. No.

18 | Q. Do the pump stations and lift stations meet FDEP requirements with
19 | respect to location, reliability and safety?

20 | A. Yes.

21 | Q. Does the utility have certified operators as required by Rule 61E12-41,
22 | Florida Administrative Code?

23 | A. Yes.

24 | Q. Is the overall maintenance of the treatment, collection, and disposal
25 | facilities satisfactory?

1 A. Yes.

2 Q. Does the facility meet the effluent disposal requirements of Rules
3 62-600 and 62-610, Florida Administrative Code?

4 A. Yes.

5 Q. Are the collection, treatment and disposal facilities in compliance with
6 all the other provisions of Chapter 62, Florida Administrative Code, not
7 previously mentioned?

8 A. Yes.

9 Q. Has University Shores wastewater system been the subject of any FDEP
10 enforcement action within the past two years?

11 A. No.

12 Citrus Park Wastewater System

13 Q. Does the utility have current operating or construction permits from the
14 FDEP for Citrus Park Wastewater System (Citrus Park)?

15 A. Yes.

16 Q. Please state the issuance dates and the expiration dates of the
17 operating or construction permits.

18 A. The utility has permit DO 42-249037, effective April 19, 1995 - April
19 13, 2000.

20 Q. Are the plants in compliance with FDEP issued permits?

21 A. Yes.

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

24 A. Yes.

25 Q. Are the treatment and disposal facilities located in accordance with

1 | Rule 62-600, Florida Administrative Code?
2 | A. Yes.
3 | Q. Has the FDEP required the utility to take any action so as to minimize
4 | possible adverse effects resulting from odors, noise, aerosol drift or
5 | lighting?
6 | A. No.
7 | Q. Do the pump stations and lift stations meet FDEP requirements with
8 | respect to location, reliability and safety?
9 | A. Yes.
10 | Q. Does the utility have certified operators as required by Rule 61E12-41,
11 | Florida Administrative Code?
12 | A. Yes.
13 | Q. Is the overall maintenance of the treatment, collection, and disposal
14 | facilities satisfactory?
15 | A. Yes.
16 | Q. Does the facility meet the effluent disposal requirements of Rules
17 | 62-600 and 62-610, Florida Administrative Code?
18 | A. Yes.
19 | Q. Are the collection, treatment and disposal facilities in compliance with
20 | all the other provisions of Chapter 62, Florida Administrative Code, not
21 | previously mentioned?
22 | A. Yes.
23 | Q. Has Citrus Park wastewater system been the subject of any FDEP
24 | enforcement action within the past two years?
25 | A. No.

Valencia Terrace Wastewater System

Note: SSU has owned this facility since May 17, 1995, according to FDEP records.

Q. Does the utility have current operating or construction permits from the FDEP for Valencia Terrace Wastewater System (Valencia Terrace)?

A. Yes.

Q. Please state the issuance dates and the expiration dates of the operating or construction permits.

A. The utility has permit DO 35-179459, effective August 3, 1990 - July 30, 1995. A renewal is being processed (file 274994).

Q. Are the plants in compliance with FDEP issued permits?

A. Yes.

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

A. Yes.

Q. Are the treatment and disposal facilities located in accordance with Rule 62-600, Florida Administrative Code?

A. Yes.

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

A. No.

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

A. Yes.

1 Q. Does the utility have certified operators as required by Rule 61E12-41,
2 Florida Administrative Code?

3 A. Yes.

4 Q. Is the overall maintenance of the treatment, collection, and disposal
5 facilities satisfactory?

6 A. Yes.

7 Q. Does the facility meet the effluent disposal requirements of Rules
8 62-600 and 62-610, Florida Administrative Code?

9 A. Yes.

10 Q. Are the collection, treatment and disposal facilities in compliance with
11 all the other provisions of Chapter 62, Florida Administrative Code, not
12 previously mentioned?

13 A. Yes.

14 Q. Has Valencia Terrace wastewater system been the subject of any FDEP
15 enforcement action within the past two years?

16 A. Yes. Enforcement action was taken against the former owner for
17 modification of a collection system without approval from FDEP and failure to
18 notify FDEP of an abnormal event, as detailed in Exhibit CCA-2.

19 Salt Springs Wastewater System

20 Q. Does the utility have current operating or construction permits from the
21 FDEP for Salt Springs Wastewater System (Salt Springs)?

22 A. Yes.

23 Q. Please state the issuance dates and the expiration dates of the
24 operating or construction permits.

25 A. The utility has permit DO 42-235710, effective August 26, 1993 - August

1 18, 1998.

2 Q. Are the plants in compliance with FDEP issued permits?

3 A. Yes.

4 Q. Are the wastewater collection, treatment and disposal facilities

5 adequate to serve present customers based on permitted capacity?

6 A. Yes.

7 Q. Are the treatment and disposal facilities located in accordance with

8 Rule 62-600, Florida Administrative Code?

9 A. Yes.

10 Q. Has the FDEP required the utility to take any action so as to minimize

11 possible adverse effects resulting from odors, noise, aerosol drift or

12 lighting?

13 A. No. The FDEP has received noise or odor complaints on occasion. SSU

14 has resolved these issues on its own initiative.

15 Q. Do the pump stations and lift stations meet FDEP requirements with

16 respect to location, reliability and safety?

17 A. Yes.

18 Q. Does the utility have certified operators as required by Rule 61E12-41,

19 Florida Administrative Code?

20 A. Yes.

21 Q. Is the overall maintenance of the treatment, collection, and disposal

22 facilities satisfactory?

23 A. Yes.

24 Q. Does the facility meet the effluent disposal requirements of Rules

25 62-600 and 62-610, Florida Administrative Code?

1 A. Yes.

2 Q. Are the collection, treatment and disposal facilities in compliance with
3 all the other provisions of Chapter 62, Florida Administrative Code, not
4 previously mentioned?

5 A. Yes.

6 Q. Has Salt Springs wastewater system been the subject of any FDEP
7 enforcement action within the past two years?

8 A. No.

9

10 Deltona Lakes Wastewater System

11 Q. Does the utility have current operating or construction permits from the
12 FDEP for Deltona Lakes Wastewater System (Deltona Lakes)?

13 A. Yes.

14 Q. Please state the issuance dates and the expiration dates of the
15 operating or construction permits.

16 A. The utility has permits DO 64-196923, effective January 17, 1992 -
17 January 7, 1997, and NPDES FL 0024546, effective April 27, 1995 - April 30,
18 2000. A wet weather discharge is being processed (file 267505). The permits
19 have been consolidated in accordance with Rule 62-620, Florida Administrative
20 Code, and will expire January 7, 1997.

21 Q. Are the plants in compliance with FDEP issued permits?

22 A. No. There has been unauthorized discharge to surface waters. A permit
23 is pending.

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

1 A. Yes.

2 Q. Are the treatment and disposal facilities located in accordance with
3 Rule 62-600, Florida Administrative Code?

4 A. Yes.

5 Q. Has the FDEP required the utility to take any action so as to minimize
6 possible adverse effects resulting from odors, noise, aerosol drift or
7 lighting?

8 A. Yes. Upon FDEP inspections for noise complaints, the utility
9 voluntarily moved several auxiliary engine-driven pumps and built a noise-
10 reduction fence to muffle the remaining engine-driven pumps.

11 Q. Do the pump stations and lift stations meet FDEP requirements with
12 respect to location, reliability and safety?

13 A. Yes.

14 Q. Does the utility have certified operators as required by Rule 61E12-41,
15 Florida Administrative Code?

16 A. Yes.

17 Q. Is the overall maintenance of the treatment, collection, and disposal
18 facilities satisfactory?

19 A. Yes.

20 Q. Does the facility meet the effluent disposal requirements of Rules
21 62-600 and 62-610, Florida Administrative Code?

22 A. No. There has been unauthorized discharge to surface waters.

23 Q. Are the collection, treatment and disposal facilities in compliance with
24 all the other provisions of Chapter 62, Florida Administrative Code, not
25 previously mentioned?

1 | A. No. There has been unauthorized discharge to surface waters.
2 | Q. Has Deltona Lakes wastewater system been the subject of any FDEP
3 | enforcement action within the past two years?
4 | A. Yes. There is an enforcement action concerning completion of permitted
5 | disposal areas. A consent order was entered requiring an application for a
6 | wet-weather discharge permit and a study of alternative disposal sites. The
7 | consent order was signed by SSU on October 27, 1995, and is awaiting execution
8 | by the Director of District Management. Those documents are set forth in
9 | Exhibit CCA-3.
10 | Q. Do you have anything further to add?
11 | A. No, I do not.
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25 |



Department of Environmental Protection

F

Lawton Chiles
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

CERTIFIED
Z 184 856 969

SOUTHERN STATES UTILITIES INC
1000 COLOR PLACE
APOPKA FL 32703

WARNING LETTER No. OWL-DW-94-0013

Attention: Rafael A. Terrero, P.E.
Manager Environmental Services

-Volusia County - DW
Stone Island S.T.P. and Collection/Transmission System

Dear Mr. Terrero:

A field inspection conducted on August 3, 1994 of the Stone Island S.T.P. and Collection/Transmission System, in response to a complaint, indicates that a violation of Chapter 403, Florida Statutes, and the rules promulgated thereunder may exist at the above described facility. Department personnel noted the following about the above described facility:

1. Failure to notify the Department regarding collection/transmission system operational difficulties that resulted in an overflow to a private residence.

Also, the Department was not notified, that during heavy rains, the sewage treatment plant experienced operational difficulties that resulted in the unauthorized hauling of wastewater to the Deltona Lakes S.T.P.

2. Modification of the subject collection/transmission system without approval from the Department. An overflow pipe was installed for the purpose of diverting flow from the subject system.
3. Failure to maintain the Stone Island sprayfield and percolation ponds as required by Specific Conditions Nos. 11 and 12 of Operating Permit No. D064-221990 and Department rules.

It is a violation for a facility to fail to comply with the following:

- A. Florida Administrative Code Rule 17-604.550 Abnormal Events. (1) In the event of equipment breakdown, power outages, destruction by hazard of fire, wind, or by other cause, the permittee shall notify the Department and the local program (where existing) when the above described abnormal events result in the disposal of inadequately treated waste in violation of Rule 17-604.130(1), F.A.C. Notification

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Southern States Utilitie Inc.
Warning Letter No. OWL-DW-94-0013
Page 2

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.

- B. Florida Administrative Code Rule 17-600.740 Reporting, Compliance, and Enforcement. (2) Violations The following acts and the causing thereof are prohibited. (a) The release or disposal of excreta, sewage, or other wastewaters or domestic wastewater residuals without providing proper treatment approved by the Department or otherwise violating provisions of this rule or other rules of the Florida Administrative Code.
- C. Florida Administrative Code Rule 17-4.030 General Prohibition. Any stationary installation which will reasonably be expected to be a source of pollution shall not be operated, maintained, constructed, expanded, or modified without the appropriate and valid permits issued by the Department, unless the source is exempted by Department rule.
- D. Florida Statutes, Chapter 403.161 Prohibitions, violations, intent. (1) It shall be a violation of this chapter, and it shall be prohibited for any person: (b) To fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the Department pursuant to its lawful authority.
- E. Florida Administrative Code Rule 17-600.410 Operation and Maintenance Requirements. (2) All reuse and land application systems shall be operated and maintained in accordance with the applicable provisions of this chapter and the provisions of Chapter 17-610, F.A.C.
- F. Florida Administrative Code Rule 17-610.523 Hydraulic Loading Rates and Cycles (6) Rapid rate systems shall be routinely maintained to control vegetation growth and to maintain percolation capability by scarification or removal of deposited solids.

You are advised that any activity at your facility that may be contributing to violations of the above described statutes and rules should be ceased immediately. 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.


You are requested to contact Al Castro, P.E. or Clarence Anderson of this office at (407) 894-7555 within 15 days of receipt of this Warning Letter to arrange a meeting with Department personnel to discuss the issues raised in this Warning Letter. You may consult an attorney and have the attorney attend the meeting with the Department.

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 may have occurred for which you may be responsible. If the


Southern States Utilities, Inc.
Warning Letter No. DW-94-0013
Page 3

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 any violation through entry into a Consent Order.

SUBMITTED BY:


Carlos Rivero-deAguilar, P.E.
Program Administrator
Water Facilities

Sincerely,


J. A. Alexander, P.E.
District Director

Date: 8/18/94

AA/ac/jb



File Copy
**Department of
Environmental Protection**

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

Lawton Chiles
Governor

CERTIFIED MAIL
Z 188 599 318

SOUTHERN STATES UTILITIES INC
1000 COLOR PLACE
APOPKA FL 32703

OCD-C-DW-95-0895

ATTENTION RAFAEL A TERRERO P E
MANAGER ENVIRONMENTAL SERVICES

Volusia County - DW
Stone Island WWTP and Collection/Transmission System
OGC Case No. 95-1029

Dear Mr. Terrero:

Enclosed is a revised Consent Order prepared by this Department for resolution of the referenced enforcement case. Some revisions requested, by Carlyn H. Kowalsky of your company, could not be incorporated in the Consent Order due to this office's need to adhere to prescribed Department policies and guidelines.

The Department believes that this revised Consent Order adequately addresses the resolution of the issues in this case and requests that you review this document, and if satisfactory, sign and date the appropriate spaces and forward same to this office within the next fourteen (14) days. A copy of the completed document will be forwarded to you upon entry by the Director of District Management.

Should the revised Consent Order be unacceptable, please provide this office with written notification within twenty (20) days. Also, any specific comments that you may have should be handwritten on the attached Consent Order and returned to this office for review along with your written notification.

If you have any questions about the terms of this Consent Order, please contact Al Castro, P.E. or Clarence Anderson at (407) 893-3313.

Sincerely,

Christanne C. Feunio, P.E.
Vivian F. Garfein
Director of District Management

Date September 13, 1995

R-20
VFG/ga/bn

Enclosure

DEP CERTIFIED MAIL NO.: _____

BEFORE THE STATE OF FLORIDA
Department of Environmental Protection

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION,)	CENTRAL DISTRICT
)	
Complainant,)	
)	OGC FILE NO. 95-1029
vs.)	
)	
SOUTHERN STATES UTILITIES, INC.,)	
As Court Appointed Receiver)	
for Enterprise Utilities)	
)	
Respondent.)	
_____)	

CONSENT ORDER

This Consent Order is made and entered into between the State of Florida Department of Environmental Protection ("Department") and Southern States Utilities, 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, and the rules promulgated thereunder, Florida Administrative Code 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), Florida Statutes.

3. The Respondent is responsible for the operation of the Stone Island WWTP, a 0.050 MGD contact stabilization wastewater treatment plant with chlorinated effluent to a 17,100± square foot percolation pond and a 2.25 ± acre spraysite ("Plant"). The Respondent is also responsible for the operation and maintenance of the collection/transmission system ("Area System") that services the area. The Plant is located at Arrowhead Road, Enterprise, Volusia County, Florida, Latitude 28°51'00" North, Longitude 81°15'00" West. The Plant and Area System were constructed by Enterprise Utilities which went bankrupt in the early 1980's. As a result, the Respondent was appointed receiver for the utility by the Circuit Court of Volusia County on May 4, 1982.

4. Respondent operates the Plant under Department permit No. DO64-221990 which expires on August 28, 1998. The Plant and Area System service area, Stone Island, is a low-lying island located on the north side of Lake Monroe, in Volusia County. The island is occupied by single family homes, many of which, the Respondent contends, were constructed below the floodplain of the lake. The Respondent also contends that one private residence ("Private Residence") was originally constructed at a lower elevation than the rest of the Area System and as a result has historically experienced problems with sewage backing up into the Private Residence. The Respondent contends that during the heavy rains

that occurred in late July 1994, one of the manhole covers within the Area System became dislodged, thereby allowing rainwater to enter the sewage collection system. When a severe storm occurred on July 31, 1994, a temporary overflow pipe failed to protect the Private Residence from a sewage backup. In response to a phone call, Respondent's personnel converged on the Private Residence and removed the excess wastewater from the Area System thereby avoiding any further overflows. The wastewater removed from the Area System was transported by pump truck to another facility operated by the Respondent. Respondent's personnel overlooked the responsibility of notifying the Department of these abnormal events as required by Respondent's operating policy and Department Rules.

5. On August 3, 1994, in response to a complaint received on August 2, 1994, Department personnel inspected the Plant and the Area System. During the inspection of the Private Residence, an unauthorized overflow pipe was discovered that connected the Private Residence to the Area System and could possibly discharge to surface water and public access areas. Information obtained by Department personnel revealed that sewage backups to the Private Residence had occurred on at least two or three other occasions and that the pipe was installed in December 1993, the last time the back up had occurred. The Respondent removed the pipe immediately after discovery by the Department. During the inspection of the Plant, Department personnel observed that the

sprayfield and the percolation pond were not being maintained as required by the operating permit.

6. As a result of the complaint inspection, the Department issued a Warning Letter on August 18, 1994 alleging the following violations of Department rules: (1) Failure to notify the Department of abnormal events, (2) Modification of a collection/transmission system without approval from the Department, and (3) Failure to maintain the disposal areas as required by the operating permit.

7. On November 10, 1994, a meeting was held between the Department and the Respondent to discuss the issues addressed in the Warning Letter. To minimize the potential for overflows and backups in the Area System, the Respondent has installed new pumps in the master lift station and a telemetry system to monitor the operation of the station. To address maintenance of the disposal areas, the Respondent has hired a private contractor to perform quarterly maintenance of the sprayfield. Respondent has agreed to connect the Area System to the Deltona Lakes WWTP collection system by August 1, 1996 and decommission the Plant in accordance with the schedule submitted to the Department by the Respondent on March 28, 1995. The Department understands that the time lines in the construction schedule are estimates, not deadlines and that delays could occur due to easement acquisition, permits, etc. The Respondent has agreed to submit monthly project status reports beginning in August 1995.

Having reached a resolution of the matter pursuant to Florida Administrative Code Rule 62-103.110(3), Department and the Respondent mutually agree and it is,

ORDERED:

8. It is the intent of this Consent Order to require the Respondent to divert flow from the Plant to the Respondent's Deltona Lakes wastewater collection/transmission system ("System") and then decommission the Plant. Within 150 days of the effective date of this Consent Order, Respondent shall submit a permit application, along with the appropriate permit fee, to the Department to construct a wastewater collection/transmission system to divert flow from the Plant to the System. The application shall be prepared and sealed by a professional engineer registered in the State of Florida. This tie in shall be constructed, certified complete and put into operation on or before August 1, 1996. In the event Respondent's application to tie into the System is denied, then within 90 days of the denial Respondent shall submit to the Department a permit application to construct a modification of the Plant that will bring the Plant into full compliance with Department rules concerning wastewater treatment and disposal. The modification may require an expansion of the Plant's disposal system. Any permit application shall be prepared and sealed by a professional engineer registered in the State of Florida. In the event that the application submitted is incomplete, within 30 days of written request by the Department

for additional information necessary to process the application, Respondent shall submit all requested information to the Department. Within 270 days from issuance of the construction permit, Respondent shall complete the construction as authorized by the construction permit. Within 30 days of completion of construction, Respondent shall submit the appropriate Certification of Completion of Construction signed and sealed by the project engineer. If the Respondent is unable or unwilling to take the Plant off-line or to construct a modification of the Plant's disposal system as provided in this paragraph, the Department reserves the right to seek other relief to require the Respondent to comply with its rules and permits.

9. At least 90 days prior to taking the Plant off-line, Respondent shall submit a plan to the Department which describes how the Respondent will abandon the Plant as well as the disposal system. Proper abandonment includes, as appropriate, pumping the Plant dry, disinfection of the Plant's components, disconnecting the force mains, disconnecting the electrical systems, ensuring that water does not collect in the Plant, removal of the Plant, removing the drain plugs or installing permanent drains which will ensure that water does not collect in the Plant, removing and properly disposing of any accumulated sludge and debris in the disposal system and scarifying the bottoms. Once the plan is approved by the Department, the Respondent shall implement the plan. The plan shall be completed no later than 60 days after the

Plant is taken off-line, or no later than 60 days after the Department approves the plan, whichever is later.

10. Within 30 days of effective date of this Consent Order, Respondent shall pay the Department \$ 9,070.00 in settlement of the matters addressed in this Consent Order. This amount includes \$ 8,720.00 in civil penalties for alleged violations of Section 403.161, Florida Statutes, and of the Department's rules and \$ 350.00 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 "Pollution Recovery Fund". The payment shall be sent to the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

11. 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 8, 9 and 10 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 "Pollution Recovery Fund". Payment shall be sent to the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767. 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. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 10 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.

12. If any event 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.

13. Respondent shall publish the following notice in a newspaper of daily circulation in Volusia County, Florida. The notice shall be published one time only within 21 days after execution of the Consent Order by the Department.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with Southern States Utilities, Inc., as court appointed receiver for Enterprise Utilities, pursuant to Rule 62-103.110(3), Florida Administrative Code. The Consent Order addresses failure to notify the Department of operational difficulties and modification of a collection system without Department approval in the vicinity of Stone Island Subdivision, Enterprise, Florida. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

Persons whose substantial interests are affected by this Consent Order have a right to petition for an administrative hearing on the Consent Order. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the 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, Florida Statutes.

The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number for the Consent Order 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, Florida Statutes, 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 60Q-2.010, Florida Administrative Code.

14. 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.

15. 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.

16. 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.

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

18. All plans, applications, penalties, stipulated penalties, costs and expenses, and information required by this Consent Order

to be submitted to the Department should be sent to Program Manager, Domestic Waste Section, Florida Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

19. 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.

20. 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 acknowledges but 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.

21. 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.

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

23. If all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 14 days prior to a sale or conveyance of the property or Plant, (1) notify the Department of such sale or conveyance, and (2) provide a copy of this Consent Order with all attachments to the new owner.

24. This Consent Order is a settlement of the Department's civil and administrative authority arising from Chapters 403 and 376, Florida Statutes, to pursue the allegations addressed herein. 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), Florida Statutes, nor does it address settlement of any violation which may be prosecuted criminally or civilly under federal law.

25. This Consent Order is final agency action of the Department pursuant to Section 120.69, Florida Statutes, and Florida Administrative Code Rule 62-103.110(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 the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

Date

Scott W. Vierima
President

DONE AND ORDERED this _____ day of _____, 1995, in
Orlando, Orange County, Florida

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Vivian F. Garfein
Director of District Management
Central District
3319 Maguire Boulevard
Suite 232
Orlando, Florida 32803-3767

FILING AND ACKNOWLEDGMENT
FILED, on this date, pursuant
to §120.52, Florida Statutes,
with the designated Department
Clerk, receipt of which is hereby
acknowledged.

CLERK

Date

DW

10/18/18
CCF
G...
C...
W...



Southern States Utilities • 1000 Color Place • Apopka, FL 32703 • 407/880-0058

October 11, 1995



Ms. Vivian Garfein
Director of District Management
Florida Department of Environmental Protection
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

RE: Volusia County - DW
Stone Island WWTP

Dear Ms. Garfein:

This is in response to the Department's proposed revised Consent Order regarding the above-referenced facility.

SSU presently operates the Stone Island wastewater facility as a court-appointed receiver. The facility was originally constructed by the developer of the area and has functioned under less than optimal conditions since the time SSU's predecessor (Deltona Utilities) was appointed receiver. Following the heavy rains during 1994, and the operational difficulties resulting from those rains, SSU undertook serious evaluation of what would be necessary to overhaul the wastewater system to prevent further operational problems. Our investigation reveals that it would take an initial investment of about \$800,000 to construct an interconnect from the existing Stone Island wastewater collection system to transmit the wastewater to SSU's Deltona wastewater facility.

During the fall of 1994, the Florida Public Service Commission (FPSC) issued an order allowing SSU to operate as one state-wide utility system and to utilize a state-wide uniform rate structure for all facilities it operates across the state. Under a state-wide rate structure, SSU can spread the costs of all capital improvements over approximately 160,000 customer accounts. Under that scenario, SSU was prepared to undertake the \$800,000 investment for the wastewater improvements at Stone Island. Recently, the FPSC has overturned its earlier decision and has held that SSU will not be permitted to operate as one state-wide utility, but rather, may be required to structure its utility rates on a "stand-alone" basis. This means that the \$800,000



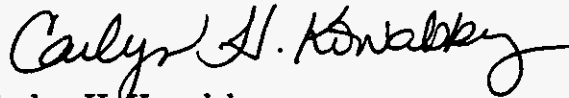
Ms. Vivian Garfein
October 11, 1995
Page 2

capital improvements necessary for the Stone Island interconnect would have to be paid exclusively by about 130 wastewater customers at Stone Island. If SSU attempted to recover \$800,000 of capital improvements from only 130 customers, it would result in exorbitantly high wastewater rates for those customers, thereby making those improvements infeasible.

Based on this present economic situation SSU will regrettably not be able to implement the interconnect between Stone Island and the Deltona wastewater facility.

We look forward to meeting with you to discuss this further.

Sincerely,



Carlyn H. Kowalsky

c: Al Castro
Clarence Anderson - *FAXED*



Florida Department of Environmental Protection

Lawton Chiles
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

CERTIFIED MAIL
P 232 481 301

Lake Utilities Company
Post Office Box 5252
Lakeland, FL 33807

WARNING LETTER No. OWL-DW-93-0026

Attention: Raymond Moats
Vice-President

Lake County - DW
Valencia Terrace Subdivision Collection System

Dear Mr. Moats:

A field inspection conducted on September 14, 1993 of Valencia Terrace Subdivision indicates that a violation of Chapter 403, Florida Statutes, and the rules promulgated thereunder may exist at the above described system. Department personnel observed the following about the above described system:

1. Failure to notify the Department about a raw sewage spill from the subject system on September 10, 1993.
2. Modification of the collection system without approval from the Department. A pipe was installed in a sewer main which can divert flow from the collection system.

It is a violation for a facility to fail to comply with the following:

- A. Florida Administrative Code Rule 17-604.550(1) - In the event of equipment breakdown, power outages...the permittee shall notify the Department and the local program (where existing) when the above described abnormal events result in the disposal of inadequately treated waste in violation of Rule 17-604.130(1). Notification shall be 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.
- B. Florida Administrative Code Rules 17-600.740(2)(a) and 17-604.130(1) - prohibits the release of excreta, sewage or other wastewaters or sludge without providing proper treatment.
- C. Florida Administrative Code Rule 17-4.030 - prohibits operation/construction/expansion/modification of a pollution source without the appropriate permits.
- D. Section 403.161(1)(b)(2) - Florida Statutes, prohibits violation of Statute or Code.


Lake Utilities Company
Warning Letter No. OWL-DW-93-0026
Page 2

You are advised that any activity at your system that may be contributing to violations of the above described statutes and rules should be ceased immediately. Operation of a system 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.

You are requested to contact Al Castro, P.E. or Clarence Anderson of this office at (407)894-7555 within 15 days of receipt of this Warning Letter to arrange a meeting with Department personnel to discuss the issues raised in this Warning Letter. You may consult an attorney and have the attorney attend the meeting with the Department.

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 may 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 any violation through entry into a Consent Order.

Sincerely,



A. Alexander, P.E.
District Director

Date:



AA/ca/jb



Florida Department of Environmental Protection

Lawton Chiles
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

CERTIFIED
P 280 849 643

Lake Utilities Company
Post Office Box 5252
Lakeland, FL 33807

OCD-CE-DW-94-0102

Attention: Raymond Moats
Vice President

Re: Proposed Settlement by Short Form Consent Order in Case of Valencia Terrace
Subdivision Collection System, OGC File No.: 94-0554

Dear Mr. Moats:

The purpose of this letter is to complete the settlement of the violation(s) previously identified by the Department of Environmental Protection ("DEP") in the Warning Letter OWL-DW-93-0026 dated September 30, 1993 which is attached. The corrective actions required to bring your facility into compliance have been performed. However, you must pay to the Department the amount of \$1000.00 in civil penalties to complete settlement of the violations described in the attached Warning Letter. This payment must be made to "The Department of Environmental Protection" by certified check or money order and shall include thereon the OGC number assigned above and the notation "Pollution Recovery Fund". The payment shall be sent to the Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767, within thirty (30) days of your signing this letter.


Your signing of this letter where indicated at the end of page two of this letter constitutes your acceptance of DEP's offer to settle this case on these terms. If you sign this letter, please return it to DEP at the address above. DEP will then countersign the letter and file it with the Clerk of the DEP. When the signed letter is filed with the Clerk, the letter shall constitute a Consent Order, which is final agency action of the DEP, the terms and conditions of which may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this letter once signed by you and entered by the DEP Clerk shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

By countersigning this settlement offer, the DEP waives its right to seek judicial imposition of damages, costs and expenses, or civil penalties for the violations described above. By accepting this offer of settlement, you waive your rights as described on the back of this document in the Notice of Rights. If you do not sign and return this letter to the Department at the Central District address given above by within twenty (20) days, it will be referred to the DEP's Office of General Counsel with a recommendation that formal

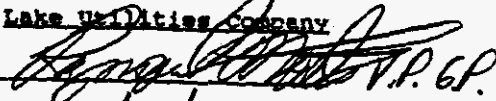
Lake Utilities Company
Lake U-102
OCD-CR
Page 2

action be taken against you. None of your rights or substantial
enforce are determined by this letter unless you sign it and it is filed with
intelerk.
the

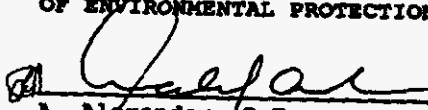
Sincerely,


A. Alexander, P.E.
District Director
DATE 2-15-94

I ACCEPT THE TERMS OF THIS SETTLEMENT OFFER.

For: Lake Utilities Company
By: 
Date: 2/22/94

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


A. Alexander, P.E.
District Director

ENTERED this 7 day of March, 1994, in Orlando, Florida.

FILING AND ACKNOWLEDGMENT FILED, on
this date, pursuant to §120.52,
Florida Statutes, with the
designated Department Clerk, receipt
of which is hereby acknowledged.


CLERK Date 3/2/94

AA/CF
AA/ca/jb

Attachments

NOTICE OF RIGHTS

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

The petition shall contain the following information:

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

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

* * * * *

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

F



Department of Environmental Protection

Lawton Chiles
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

CERTIFIED
Z 184 856 984

SOUTHERN STATES UTILITY SERVICES
1000 COLOR PLACE
APOPKA FL 32703

WARNING LETTER No. OWL-DW-94-0014

Attention: Rafael A. Terrero, P.E.
Manager Environmental Services

Volusia County - DW
Deltona Lakes, W.W.T.P. and Reuse Service Area

Dear Mr. Terrero:

A field inspection conducted on August 22, 1994 of the Deltona Lakes, W.W.T.P. and Reuse Service Area, in response to a malfunction report, indicates that a violation of Chapter 403, Florida Statutes, and the rules promulgated thereunder may exist at the above described facility. Department personnel noted the following about the above described facility:

1. An unauthorized discharge of reclaimed water to Lake Fisher. Permit No. DO64-196923 stipulates in the operate description that there will be "no discharge to surface waters".
2. An unauthorized discharge of reclaimed water to Lake Monroe. The pumping station at the holding pond at the plant was in operation and was pumping reclaimed water from the holding pond to Lake Monroe. In accordance with the referenced permit, this activity is not permitted by the Department.
3. The Department is very concerned about existing wet weather storage capacity in the Reuse Service Area.

It is a violation for a facility to fail to comply with the following:

- A. Florida Statutes, Chapter 403.161 Prohibitions, violations, intent. (1) It shall be a violation of this chapter, and it shall be prohibited for any person: (b) To fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the Department pursuant to its lawful authority.

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

Southern States Utility Services
Warning Letter No. OWL-dw-94-0014
Page 2

- B. Florida Statutes, Chapter 403.088 Water pollution operation permits; temporary permits; conditions. (1) No person, without written authorization of the Department, shall discharge into waters within the State any waste which, by itself or in combination with the wastes of other sources, reduce the quality of the receiving waters below the classification established for them.
- C. Florida Administrative Code Rule 62-650.100¹ Scope/Intent/Purpose (1) Section 403.021(2), Florida Statutes, as amended, the Florida Air and Water Pollution Control Act, established that no wastes are to be discharged to any waters of the State without first being given the degree of treatment necessary to protect the beneficial uses of such water.
- D. Florida Administrative Code Rule 62-600.740¹ Reporting, Compliance, and Enforcement. (2) Violations The following acts and the causing thereof are prohibited: (a) The release or disposal of excreta, sewage, or other wastewaters or domestic wastewater residuals without providing proper treatment approved by the Department or otherwise violating provisions of this rule or other rules of the Florida Administrative Code.

You are advised that any activity at your facility that may be contributing to violations of the above described statutes and rules should be ceased immediately. 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.

You are requested to contact Al Castro, P.E. or Clarence Anderson of this office at (407) 894-7555 within 15 days of receipt of this Warning Letter to arrange a meeting with Department personnel to discuss the issues raised in this Warning Letter. You may consult an attorney and have the attorney attend the meeting with the Department.

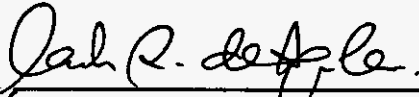
PLEASE BE ADVISED that this Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. The purpose of this letter is to advise you of potential violations and to set up a meeting to discuss possible resolutions to any potential violations that may 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

¹ (Former Rules 17-650.100 and 17-600.740)

Southern States Utility Services
Warning Letter No. OWL-Dw-94-0014
Page 3

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.

SUBMITTED BY:



Carlos Rivero-deAguilar, P.E.
Program Administrator
Water Facilities

Sincerely,



A. Alexander, P.E.
District Director

Date: 5-1-94

¹⁰
AA/ac/jb
bc: Lee Miller



Department of Environmental Protection

Lawton Chiles
Governor
CERTIFIED MAIL
Z 188 599 323

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

SOUTHERN STATES UTILITIES INC
1000 COLOR PLACE
APOPKA FL 32703

OCD-C-DW-95-0952

ATTENTION RAFAEL A TERRERO P E
MANAGER ENVIRONMENTAL SERVICES

Volusia County - DW
Deltona Lakes Wastewater Treatment Plant
OGC Case No. 95-1044

Dear Mr. Terrero:

Enclosed is a revised Consent Order prepared by this Department for resolution of the referenced enforcement case. All revisions requested, by Carlyn H. Kowalsky of your company, were incorporated in the revised Consent Order.

The Department believes that this revised Consent Order adequately addresses the resolution of the issues in this case and requests that you review this document, and if satisfactory, sign and date the appropriate spaces and forward same to this office within the next fourteen (14) days. A copy of the completed document will be forwarded to you upon entry by the Director of District Management.

Should the revised Consent Order be unacceptable, please provide this office with written notification within twenty (20) days. Also, any specific comments that you may have should be handwritten on the attached Consent Order and returned to this office for review along with your written notification.

If you have any questions about the terms of this Consent Order, please contact Al Castro, P.E. or Clarence Anderson at (407) 893-3313.

Sincerely,

Christiane C. Fenard, P.E.
Vivian F. Garfein
Director of District Management

Date Oct. 3, 1995

VFG/ca/bn
Enclosure

DEP CERTIFIED MAIL NO. :

BEFORE THE STATE OF FLORIDA
Department of Environmental Protection

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION,)	CENTRAL DISTRICT
)	
Complainant,)	
)	OGC FILE NO.95-1044
vs.)	
)	
SOUTHERN STATES UTILITIES, INC.)	
)	
Respondent.)	
)	

CONSENT ORDER

This Consent Order is made and entered into between the State of Florida Department of Environmental Protection ("Department") and Southern States Utilities, 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, and the rules promulgated thereunder, Florida Administrative Code 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), Florida Statutes.

3. Respondent is the owner and is responsible for the operation of the Deltona Lakes WWTP, a 0.900 MGD activated sludge wastewater treatment plant with tertiary filtered, high level disinfected reclaimed water discharged to two golf courses for public access irrigation, holding ponds and wet-weather storage ponds ("Plant"). The Plant is located at 401 Fisher Drive, Deltona, Volusia County, Florida, Latitude 28°52'27" North, Longitude 81°15'07" West.

4. Respondent operates the Plant under Department permit No. DO64-196923 which expires January 7, 1997. As a result of a malfunction report submitted by the Respondent, an inspection was conducted on August 22, 1994. During the inspection, Respondent stated that recent heavy rains had threatened the integrity of the berm between the on-site holding pond and Fisher lake. To avoid a breach of the berm, Respondent had allowed an unauthorized discharge from the on-site holding pond to Lake Fisher to occur through an emergency overflow pipe. This discharge resulted in flooding downstream of Lake Fisher which concerned affected homeowners. To alleviate the flooding, the Respondent began pumping the on-site holding pond water to Lake Monroe in violation of the referenced permit. An inspection of the disposal sites followed: At Deltona Hills golf course, it was noted that no wet-weather storage pond had been constructed, although the Department had authorized construction by Permit No. DC64-174187. The area surrounding the Glen Abbey golf course wet-weather

storage pond (James Pond) was flooded. Stormwater was flowing over the top of the berm from James Pond into the Glen Abbey holding pond. This condition caused the Glen Abbey holding pond to fill up with stormwater restricting its capacity to store reclaimed water. Therefore, the Respondent concluded that its only alternative to alleviate the flooding condition was to discharge to Lake Monroe. On September 1, 1994, the Department issued Warning Letter OWL-DW-94-0014 to address the aforementioned unauthorized discharges to surface waters. These discharges are violations of Chapter 403, Florida Statutes, and Department Rules 62-600 and 62-650, Florida Administrative Code.

5. A meeting to discuss/resolve the issues addressed in the referenced Warning Letter was held on November 10, 1994. During the meeting the Respondent reiterated all of the events noted in paragraph 4. The Respondent said: (1) it was negotiating with Deltona Hills golf course to construct a wet-weather storage pond site at an alternative location; (2) it would investigate the feasibility of a limited wet-weather discharge permit; (3) some of the flooding at the Glen Abbey golf course wet-weather storage pond site was due to stormwater from a new development area that inundated the wet-weather storage pond; (4) construction will continue on the FPL Easement drainfield authorized in Construction Permit No. DC64-177248; and (5) it would investigate alternative disposal methods and sites. The Central District staff agreed to hold imposition of civil penalties in abeyance provided all of the

above issues are addressed in the operating permit application review process. In a letter dated November 23, 1994, the Respondent agreed to enter a Consent Order to implement corrective actions for the issues addressed above. On December 1, 1994, a meeting was held with the Tallahassee staff to discuss the possibility of a wet-weather discharge authorization. The Respondent continues to discharge to Lake Monroe during wet-weather periods.

The Respondent has submitted applications for a wet-weather discharge permit and an operating permit. The operating permit application, File No. 234782, was received on July 21, 1993. The wet-weather discharge permit application, File No. 267505, was received on March 21, 1995. These applications are currently being processed by Department staff.

On June 30, 1995, the Department received the Certification of Completion of Construction for the FPL--Easement drainfield constructed pursuant to Permit No. DC64-177248; the drainfield has been placed in operation.

Having reached a resolution of the matter pursuant to Florida Administrative Code Rule 62-103.110(3), Department and the Respondent mutually agree and it is,

ORDERED:

Respondent shall comply with the following corrective actions within the stated time periods:

6. Upon the effective date of this Consent Order, the

Respondent shall diligently pursue the issuance of a limited wet-weather discharge authorization.

7. Upon the effective date of this Consent Order, the Respondent shall continue meaningful negotiations with the Deltona Hills Golf Course to evaluate the feasibility of constructing additional wet-weather storage or disposal at an alternative location.

8. The Respondent shall perform an engineering evaluation of the existing disposal capacity of the FPL Easement drainfield constructed pursuant to Permit No. DC64-177248. The Respondent shall submit to the Department the results of the engineering evaluation within the Engineering Report addressed in paragraph 9 of this Consent Order.

9. The Respondent shall investigate additional sites for possible use as disposal/storage areas. Since it has been determined that one of the Glen Abbey wet-weather storage sites (James Pond) is no longer available, then within 90 days of the effective date of this Consent Order, the Respondent shall submit an Engineering Report to the Department summarizing current disposal sites and capacities, possible new sites and proposed capacities and engineering recommendations to assure that the treatment facility has the required permitted disposal capacity available. Within 60 days of Department approval of the recommendations contained in the referenced Engineering Report, the Respondent shall commence the actions necessary to implement

the recommendations.

10. Within 15 days of the effective date of this Consent Order, Respondent shall provide the Department with copies of the calibration records of the flow meters at the plant and all disposal sites.

11. Upon the effective date of this Consent Order, the Respondent shall provide the Department with quarterly reports that update the progress of the tasks addressed in paragraphs 6, 7, 8 and 9.

12. Respondent shall demonstrate, during a 12 month study period following completion of the tasks addressed in paragraphs 6, 7, 8 and 9, that permitted reclaimed water disposal and wet-weather storage capacities are available. Within 30 days of completion of the study period, Respondent shall submit an engineering report documenting these capacities.

13. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department \$ 500.00 in settlement of the matters addressed in this Consent Order. This amount includes \$ 0.00 in civil penalties for alleged violations of Section 403.161, Florida Statutes, 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 "Pollution Recovery Fund". The payment shall be sent to the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

14. 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 6, 7, 8, 9, 10, 11, 12 and 13 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 "Pollution Recovery Fund". Payment shall be sent to the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767. 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. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 13 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.

15. If any event 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.

16. Respondent shall publish the following notice in a newspaper of daily circulation in Volusia County, Florida. The notice shall be published one time only within 21 days after execution of the Consent Order by the Department.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with Southern States Utilities, Inc. pursuant to Rule 62-103.110(3), Florida Administrative Code. The Consent Order addresses the discharge of reclaimed water, in violation of permit conditions, to Lake Fisher and Lake Monroe in the vicinity of Deltona, Florida. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

Persons whose substantial interests are affected by this

Consent Order have a right to petition for an administrative hearing on the Consent Order. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the 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, Florida Statutes.

The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number for the Consent Order 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, Florida Statutes, 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 60Q-2.010, Florida Administrative Code.

17. 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.

18. 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.

19. 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.

20. Respondent shall allow all authorized representatives of the Department access to the property and Plant 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 should be sent to Program Manager, Domestic Waste Section, Florida Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

22. 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.

23. 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 acknowledges but 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.

24. 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.

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

26. If all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 14 days prior to a sale or conveyance of the property or Plant, (1) notify the Department of such sale or conveyance, and (2) provide a copy of this Consent Order with all attachments to the new owner.

27. This Consent Order is a settlement of the Department's civil and administrative authority arising from Chapters 403 and 376, Florida Statutes, to pursue the allegations addressed herein. 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), Florida Statutes, nor does it address settlement of any violation which may be prosecuted criminally or civilly under federal law.

28. This Consent Order is final agency action of the Department pursuant to Section 120.69, Florida Statutes, and Florida Administrative Code Rule 62-103.110(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 the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

_____ Date

_____ Scott W. Vierima
President

DONE AND ORDERED this _____ day of _____, 1995, in Orange County, Florida

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Vivian F. Garfein
Director of District Management
Central District
3319 Maguire Boulevard
Suite 232
Orlando, Florida 32803-3767

FILING AND ACKNOWLEDGMENT
FILED, on this date, pursuant to §120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

CLERK

Date