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May 15, 2003

Ms. Blanca Bayo, Director  
Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**HAND DELIVERY**

Re: Docket No. 021066-WS

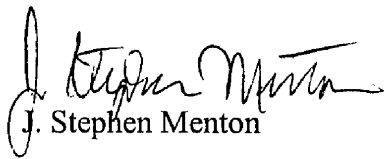
Dear Ms. Bayo:

Enclosed with this letter on behalf of Florida Water Services Corporation ("Florida Water") are the original and fifteen copies of Florida Water's Notice of Cancellation of Contract and Suggestion of Mootness.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

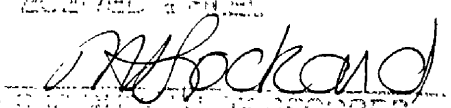
Thank you for your assistance with this filing.

Sincerely,

  
J. Stephen Menton

- AUS \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_ JSM/knb
- GCL \_\_\_\_\_ Enclosures
- OPC \_\_\_\_\_ cc: All Parties of Record
- MMS \_\_\_\_\_
- SEC   T
- OTH \_\_\_\_\_ 021066\Bayo.515

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MAY 15 PM 1:30  
COMMISSION CLERK

RECEIVED & FILED  
  
OFFICE OF RECORDS

DOCUMENT NUMBER-DATE  
14354 MAY 15 03  
FLORIDA PUBLIC SERVICE COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application by Florida Water Services Corporation for acknowledgment of sale of facilities to Florida Water Services Authority and cancellation of Certificates )  
Docket No. 021066-WS )  
Filed: May 15, 2003 )  
\_\_\_\_\_)

**FLORIDA WATER SERVICES CORPORATION'S  
NOTICE OF CANCELLATION OF CONTRACT AND  
SUGGESTION OF MOOTNESS**

Florida Water Services Corporation ("Florida Water"), by and through its undersigned counsel, hereby files and serves this notice that the Asset Purchase Agreement (the "Purchase Agreement") executed on September 19, 2002 between Florida Water and the Florida Water Services Authority ("Authority") has been cancelled and, consequently, Florida Water suggests that its Application filed pursuant to Order No. PSC-03-0193-FOF-WS is moot and that this docket should be closed. In connection therewith, Florida Water states as follows:

1. Following public announcement of the execution of the Purchase Agreement, this docket was opened on October 22, 2002 to conduct an investigation into the proposed sale of Florida Water's utility assets to the Authority.
2. At an agenda conference on February 4, 2003, the Commission ordered Florida Water to file a preclosing application related to the proposed sale to the Authority. That ruling was reflected in Order No. PSC-03-0193-FOF-WS issued in this docket on February 7, 2003 (the "Order").
3. In compliance with the Order, Florida Water submitted Florida Water Service Corporation's Application for Acknowledgment of Sale of Facilities to Florida Water Services Authority on February 7, 2003.

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PSC - COMMISSION CLERK

4. While Florida Water complied with the Commission's directive to file an application in connection with the proposed sale to the Authority, Florida Water challenged the Commission's authority to issue the Order by filing a Petition for Writ of Prohibition on February 5, 2003 with the First District of Appeal Court, Case No. 1D03-432. The requested relief was denied by the Court pursuant to an Order dated February 13, 2003.

5. Florida Water also filed an administrative appeal of the Commission's Order with the First District Court of Appeal, Case No. 1D03-978.

6. On February 12, 2003, the Commission filed a Verified Complaint in the Circuit Court for the Second Judicial Circuit in and for Leon County, Florida seeking an injunction prohibiting Florida Water from proceeding with the proposed sale to the Authority prior to obtaining Commission approval, Case No. 03-CA-358. In its responsive pleadings in that case, Florida Water sought a Writ of Mandamus from the Circuit Court. On March 7, 2003, the Circuit Court issued a Final Order granting the Commission's request for an injunction and denying Florida Water's counterclaim for Writ of Mandamus. Florida Water filed an appeal of the Circuit Court Order with the First District Court of Appeal, Case No. 1D03-1035.

7. On March 10, 2003, Florida Water advised the Authority that it was terminating the Purchase Agreement in accordance with the terms of that Agreement. A copy of the Termination Letter is attached hereto as Exhibit A.

8. On April 3, 2003, Florida Water filed a Notice of Voluntary Dismissal with respect to the administrative appeal of the Commission's Order, DCA Case No. 1D03-978. An Order was issued by the Court on April 8, 2003 dismissing that case.

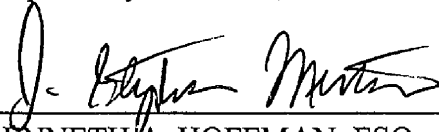
9. On April 10, 2003, Florida Water filed a Notice of Voluntary Dismissal of the appeal of the Circuit Court Order, DCA Case No. 1D03-1035. On April 24, 2003, the Court entered an Order dismissing that appeal.

10. In view of the termination of the Purchase Agreement and the dismissal of the appeals related to the Commission's Order, Florida Water believes that the Application submitted on February 7 pursuant to the Commission's Order is moot. Florida Water suggests that this docket should be closed.

WHEREFORE, for the reasons set forth above, the Commission should:

1. Issue an order concluding that the Application submitted in this matter is moot;
2. Close the docket in this matter.

Respectfully submitted,



KENNETH A. HOFFMAN, ESQ.  
J. STEPHEN MENTON, ESQ.  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
P. O. Box 551  
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- - and - -

CARLYN KOWALSKY, ESQ.  
Vice President and General Counsel  
Florida Water Services Corporation  
P. O. Box 609520  
Orlando, Florida 32860-9520  
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(407) 589-4241 (Telecopier)

Attorneys for Florida Water Services Corporation

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Hand Delivery(\*) and U.S. Mail this 15th day of May, 2003 to:

Harold McLean(\*)  
General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Room 301J  
Tallahassee, Florida 32399-0850

John R. Marks, III  
Knowles, Marks & Randolph, P.A.  
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Tallahassee, Florida 32301

Charles J. Beck  
Deputy Public Counsel  
Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399-1400

Mr. Chuck Lewis  
Hernando County Board of County Com.  
20 North Main Street, Room 461  
Brooksville, FL 34601-2849

John R. Jenkins, Esq.  
Rose, Sundstrum & Bentley, LLP  
2548 Blairstone Pines Drive  
Tallahassee, Florida 32301

Robert Scheffel Wright, Esq.  
John T. LaVia, Esq.  
Landers & Parsons, P.A.  
P. O. Box 271  
Tallahassee, FL 32302

Lorena Holley, Esq.(\*)  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Room 370  
Tallahassee, Florida 32399-0850

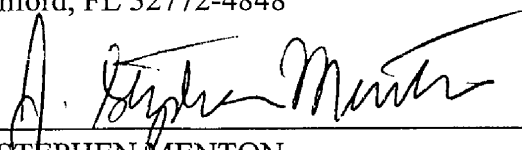
Thomas C. Palmer, Esq.  
Collier County Board of Commissioners  
3301 East Tamiami Trail  
Administrative Building, 8<sup>th</sup> Floor  
Naples, Florida 34112

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P. O. Box 4848  
Sanford, FL 32772-4848

  
\_\_\_\_\_  
J. STEPHEN MENTON

F:\USERS\ROXANNE\021066\NOTICE OF CANCELLATION



March 10, 2003

Via E-Mail, Facsimile and Overnight Express

Mr. J. Lance Reese, Chairman  
Florida Water Services Authority  
E-mail: [cacagms@aol.com](mailto:cacagms@aol.com)

Miller, Canfield, Paddock and Stone, PLC  
Attention: Richard I. Lott  
Fax: (850) 469-1088  
E-Mail: [rilott@prodigy.net](mailto:rilott@prodigy.net)

Dear Mr. Reese and Mr. Lott:

This is to advise you that Florida Water Services Corporation hereby terminates the Amendment and Restatement of Asset Purchase Agreement dated December 20, 2002 by and between the Florida Water Services Authority and Florida Water Services Corporation and the Addendum to Amendment and Restatement of Asset Purchase Agreement dated February 14, 2003 ("Agreement"). This action is taken pursuant to Section 9.1 of the Agreement.

In accordance with Section 9.2 of the Agreement, all obligations of the parties are hereby terminated except as otherwise specifically provided therein.

Sincerely,

A handwritten signature in cursive script that reads "Carlyn H. Kowalsky".

Carlyn H. Kowalsky  
General Counsel

c: Ed Gray



P.O. Box 609520 / Orlando, Florida 32860-9520 / Phone 407/598-4100

*Water For Florida's Future*

