

RECEIVED FPSC
07 AUG 31 AM 11:28
COMMISSION
CLERK

Mr. Bart Fletcher
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

**Re: Docket No. 060540-WU – Application for increase in water rates in Pasco
County by Colonial Manor Utility Company.**

1.
 - a. A Permit No. 0268357-003-WC/MB was issued by the FDEP on June 12, 2007, to construct a centrally located nitrate removal system to treat raw water from wells No. 1, 2, 3, 4 and 5. The new system is necessary for the removal of nitrates from the raw ground waters to levels that are below the Drinking Water Standards of 10.0 mg/l (Rule 62-550, F.A.C.) The construction of the nitrates removal system is also required in accordance with the Consent Order (No. OGC File No. 05-2698-51) that have been executed between the FDEP and Colonial Manor Utilities.
 - b. Plant addition has not been completed.
 - c. It is not applicable at this time.
 - d. The design and permitting of the water plant modification have been completed. A copy of the final construction permit is attached.
 - e. Upon approval of the funding by the PSC, a contractor will be selected to perform the required modification through a bidding competitive process. An agreement will be executed between Colonial Manor Utilities and the selected contractor, after

DOCUMENT NUMBER-DATE

07880 AUG 31 5

FPSC-COMMISSION CLERK

completion of the bidding process. A copy of the agreement will be forwarded to you as well.

f. The actual target date for the completion of the water treatment plant modifications is in the Consent Order Agreement.

g. As indicated by the Consent Order Agreement, the plant addition should be completed within 30 months of the issuance of the Consent Order.

2.

a. The existence of extraordinary circumstances is derived from the previous owners need to sell the Utility because they would not have been able to maintain the quality of service due to the cost of necessary repairs and the age of the system infrastructure. Many deficiencies in quality of service, age and deterioration of infrastructure, and water outages were noted by customers at the previous customer meeting.

b. We are providing the two journal entries on 12/31/04 and 7/14/05 that our books and records show. We are unsure as to why the amounts do not agree to the PSC order as these journal entries were provided to us by our external CPA.

3. We used the previously recorded finding of 900 gallons per minute per P.S.C. Order No. PSC-03-1250- PAA-WU (Docket No. 030250-WU), Page 44 attached herein. However, we do agree the four active wells have a current capacity of 985 gallons per minute, based on current field information.

4. We have requested an estimate for the loan interest rates and fees from our banker. We have enclosed a copy of the e-mail correspondence from Mr. Ed Hancock, at Mercantile Bank, in Port Richey, FL.

5. The Utility agrees with each audit finding contained in the June 15, 2007 report.

6.
 - a. We are basing this estimated \$8,000 amount on an appraisal done about a year and a half ago for similar Utility. The actual amount is estimated and will not be known for certain until financing arrangements are formally negotiated.

 - b. We agree that the appraisal fees should be amortized according to Public Service Commission rules.

 - c. The increase in chemical costs includes:
 - Salt: will be needed for the regeneration of the nitrates removal filter resin.
 - Additional chlorine: will be necessary due to the conversion to chloramination for disinfection.
 - Ammonia: this is needed for chloramination process.

 - d. Anticipated increase in operations costs of \$17,160 due to improvements will require one additional hour per day minimum due to monitoring of filtration. The calculation amounts to 365 additional hours at \$47.01 per hour and is less than the rate US Water Services currently charges for a certified operator (~\$55/hr.).

 - e. We have estimated the insurance costs based on a policy issued for sister Utility company and the actual quote upon completion of the project may be higher or lower based on the insurance company rates. We believe this is a conservative estimate.
The owner of the Utility, Mr. Deremer, estimates that the power costs will double based upon his knowledge of the proposed improvements and the system requirements. Prior year purchased power was \$7,206 and the estimated increase includes an allowance for potential power cost increases.

7. Here is a table of the requested information regarding compensation of the Utility owner:

<u>Entity Name</u>	<u>Position Held</u>	<u>Avg. Hrs</u>	<u>Officer Comp</u>	<u>% Time</u>
Colonial Manor	President	6 hrs/wk	\$24K/annum	15
Dixie Groves	President	3 hrs/wk	\$12K/annum	7.5
Holiday Utility	President	3 hrs/wk	\$12K/annum	7.5
Virginia City	President	3 hrs/wk	\$12K/annum	7.5
US Water Services	President	24 hrs/wk	\$150K/annum	60
D & D Property	President	½ hrs/wk	none	1.25
Holiday Waterworks	President	½ hrs/wk	none	<u>1.25</u>
Total				100

8. Copies of all correspondence related to these issues are attached to this report.

9.

- a. All additional testing costs were required by the Florida Department of Environmental Protection for the total dollar amount and percentages indicated. The 2006 additional cost was \$ 7,474.29.
- b. The one bill in this general ledger account from another vendor is from Floyd S. Salser Jr. & Assoc., Inc. It is invoice number 125650, dated 10/8/04, paid in 2005, and is for \$50.00 for a meter bench test (copy enclosed).
- c. This amount is related only to the construction of the system. However, on-going operational and maintenance expenses will be required to ascertain that the system will be compliant at all times.

10.

- a. Per NARUC, all “repair” type items to tangible assets should be capitalized with a corresponding write off of the accumulated depreciation, for amounts over \$150, versus expensing the item. We would not disagree that since the cost of the repair is over \$150, that they should be capitalized if this would follow the NARUC accounting rules.

- b. Colonial Manor records that I have show one main break on 9/28/04 due to Hurricane Jeanne.
- c. No water main breaks were fixed by someone other than US Water Services Corp.

11.

- a. Boil water notices are not applicable to nitrates. They are only applicable to situations related to the disinfection process due to bacteriological contamination, low pressure in the water distribution system or any repair to be performed to the system.
- b. Chloramines are used for disinfection of the finished water. When the levels of chloramines drops below the minimum allowable level (blow 0.6 mg/l) a boil water notice will be required.
- c. Yes, it is non-recurring in nature.

12.

The real estate and tangible personal property tax is ultimately determined by the valuation by the Pasco County Property Tax Assessor. This estimate was calculated by taking the current assessed values and tax amounts and projecting that the improvements to the system will be taxed at a higher value based on the costs of the improvements.

13.

Please see invoice copies enclosed.

14.

Please see revision # 2 for Schedule E-2 and Schedule F-1. The Consumption in Column 3 on Schedule E-2 is 39,799,000 and the Gallons Sold in Column 3 on Schedule F-1 is 39,799,000 gallons also. We have enclosed copies of the two schedules in question.

If you require additional information, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Joseph G. Gabay". The signature is fluid and cursive, with the first name "Joseph" being the most prominent part.

Joseph G. Gabay
Accounting Services Manager

Cc: Mr. Gary Deremer, President



Florida Department of Environmental Protection

Southwest District Office
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926

TB File

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

June 12, 2007

In the Matter of an
Application for Permit by:

Colonial Manor Utilities
Gary Deremer, President
4939 Cross Bayou Blvd.
New Port Richey, FL 34652

Project: Addition of Centrally Located Nitrate Removal
System to Treat Wells 1, 2, 3, 4, and 5
Permit No. 0268357-003-WC/MB
Colonial Manor Utilities, PWS No. 651-0355
Pasco County

NOTICE OF PERMIT ISSUANCE

Enclosed is Permit Number 0268357-003-WC/MB to install a centrally located nitrate removal system, issued pursuant to Section(s) 403.087(l), Florida Statutes (F.S.).

A person whose substantial interests are affected by this permit may petition for an administrative proceeding (hearing) in accordance with Section 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, within 14 days of receipt of this Permit. Petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, F.S.

The Petition shall contain the following information;

- (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department Permit File Number and the county in which the project is proposed;
- (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; and

(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.

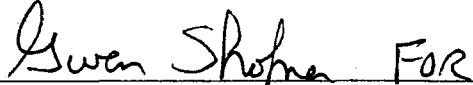
If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this permit. Persons whose substantial interests will be affected by any decision of the Department with regard to the application 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 14 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207, F.A.C.

This permit is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition and conforms to Rule 62-103.070, F.A.C. Upon timely filing of a petition or a request for an extension of time this permit will not be effective until further Order of the Department.

When the Order (Permit) is final, any party to the Order has the right to seek judicial review of the Order pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date the Final Order is filed with the Clerk of the Department.

Executed in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION
DRINKING WATER PROGRAM

 FOR

Jeffrey S. Greenwell, P.E.
Water Facilities Administrator
Southwest District

JSG/gs



Florida Department of Environmental Protection

Southwest District Office
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

PERMITTEE:

Colonial Manor Utilities
4939 Cross Bayou Blvd.
New Port Richey, FL 34652

Attention: Gary Deremer
President

PERMIT/CERTIFICATION:

PWS ID Number: 651-0355
Permit Number: 0268357-003-WC/MB
Date of Issue: June 12, 2007
Expiration Date: June 11, 2012
County: Pasco
Lat/Long: N/A
Section/Township/Range: N/A
Project: Addition of Centrally
Located Nitrate Removal
System to Treat Wells 1,
2, 3, 4, and 5

This permit is issued under the provisions of Chapter 403, Florida Statutes, and Florida Administrative Code (F.A.C.) Rules 62-4 and 62-555. Colonial Manor Utilities, herein referred to as "Permittee", is hereby authorized to perform the work or operate the facility shown on the application and approved drawings, plans, and other documents prepared by Mohammed Kader, P.E., [U.S. Water Services Corporation], attached hereto or on file with the department and made a part hereof and specifically described as follows.

The project involves the addition of a centrally located nitrate removal system to treat raw water from Wells 1, 2, 3, 4, and 5.

The new construction approved by this permit is as follows:

1. Ion exchange filter system for nitrate removal consisting of the following:
Two Siemens ion exchange filters;
Two 10,000-gallon brine tanks for filter regeneration; and
Ion exchange filter backwash feed piping and spent backwash evaporation basin
2. Modification of existing sodium hypochlorite storage and feed system. The modification shall incorporate the existing sodium hypochlorite feed pump and chemical storage tank. A second hypochlorite feed pump and a redundant standby feed pump will be added.
3. A 130,000-gallon above-ground finished water storage tank.
4. Three high service pumps including two 20 hp pumps, each with 200 gpm capacity, and one 30 hp pump for fire flow with 500 gpm capacity.
5. Associated piping and appurtenances.
6. Upsizing 825 LF of water main from 2-inch to 6-inch diameter pipe.
7. Installation of 3,100 LF of 4-inch HDPE transmission main and 1,540 LF of 6-inch HDPE transmission main.

Location: North of Moog Road, east of US 19, in Pasco County, Florida.

SPECIFIC CONDITIONS:

Construction:

1. All construction must be in accordance with this permit. The Permittee must notify the Department in writing of any proposed changes and/or revisions to the permitted project. The Permittee may only make changes to the permitted project after receiving written approval and consent from the Department pursuant to F.A.C. Rule 62-555.530(2).
2. The Permittee must ensure that a professional engineer registered in the State of Florida supervises the permitted construction or alteration of this public water supply. The Permittee must retain the service of an engineer registered in the State to observe that construction of the project is in accordance with the engineering plans and specifications submitted in support of the application for this permit pursuant to F.A.C. Rule 62-555.520(3).
3. The Permittee must ensure that all treatment chemicals and system components comply with the applicable ANSI/NSF Standard, where applicable.
4. The Permittee must maintain a minimum free chlorine residual of at least 0.2 mg/l or a combined chlorine residual of at least 0.6 mg/l and a minimum pressure of 20 psi through out the distribution system at all times after placing the facility back into operation after construction.
5. The Permittee must ensure that the contractor takes all precautions necessary to ensure the integrity of the existing water treatment plant during construction of the project covered by this permit.
6. All documents submitted pursuant to the conditions of this permit shall be accompanied by a cover letter stating the name and date of the document submitted, the file number and project name of the permit involved, and the number(s) of the specific condition(s) affected. All submittals shall be signed by the Permittee or the Permittee's authorized representative whose name is on file with the Department and shall be forwarded to the Southwest District Office, Potable Water Permitting Section, Department of Environmental Protection, 13051 North Telecom Parkway, Temple Terrace, Florida 33637.
7. The Permittee shall be aware of and operate under the attached "General Conditions" pursuant to F.A.C. Rule 62-4.160. General Conditions are binding upon the Permittee and enforceable pursuant to Chapter 403, Florida Statutes.
8. If historical or archaeological artifacts, such as Indian canoes, are discovered at any time within the project site the Permittee shall immediately notify the district office and the Bureau of Historic Preservation, Division of Archives, History and Records Management, R.A. Gray Building, Tallahassee, Florida 32301, telephone number (850) 487-2073.
9. If unanticipated delays will cause project completion to extend beyond the expiration date of this permit, the Permittee shall submit to the Department a request to extend the expiration date of this permit including the appropriate processing fee. This request shall specify the reasons for the delay and shall be submitted to the Department for approval at least sixty (60) days prior to the expiration date of this permit.
10. The Permittee may not place the permit-authorized construction of this public water system into service until receipt of a Department letter releasing the system for service pursuant to F.A.C. Rule 62-555.340.

Clearance:

11. Pursuant to F.A.C. Rule 62-555.345, the Department may issue a letter of clearance for the system modifications once all of the following items have been submitted to the Department of Environmental Protection, Southwest District Office, Potable Water Permitting Section, 13051 N. Telecom Parkway, Temple Terrace, Florida 33637-0926. These are:
 - a. Complete and fully executed form "Certification of Construction Completion and Request for Clearance to Place Permitted PWS Components into Operation", DEP Form 62-555.900(9) effective August 28, 2003 [F.A.C. Rule 62-555.345(1)];
 - b. Statement by the Permittee certifying that record drawings are available for review at a specified location or the submittal of a copy of said drawings (Please note that if there has been any deviation from the permit and/or approved plans and/or specification, record drawings must be submitted);
 - c. Certification by the professional engineer that the record drawings for the components are adequate and that they indicate all deviations from the construction permit, approved plans and/or specifications.
 - d. Documentation that acceptance for the dried regenerant sludge disposal has been obtained from an approved land fill or other appropriate disposal facility.
 - e. Copy of satisfactory pressure test of the piping associated with the 130,000-gallon storage tank and high service pumps performed in accordance with AWWA Standards. [F.A.C. Rule 62-555.320(21)(a)(1)]
 - f. Copies of satisfactory bacteriological analyses verifying that proper disinfection of the 130,000-gallon storage tank and associated piping was conducted in accordance with F.A.C. Rule 62-555.340 and the American Water Works Association (AWWA) Standard C651-99 as follows:
 - i. After reducing the total chlorine residual in the water mains to no more than four milligrams per liter, the samples – each taken on a separate day and taken at least six hours apart from the other sample - shall be collected at each of the locations indicated in the applicable AWWA standard, and the samples shall be analyzed for total residual chlorine and for the presence of total coliform;
 - ii. Samples shall be taken from the following locations: at the inlet and outlet of the 130,000-gallon storage tanks and at the inlet and outlet of the high service pumps;
 - iii. If any sample contains more than four milligrams per liter of total chlorine, the sample shall be considered invalid. If any sample shows the presence of total coliform, the water mains shall be re-disinfected and resampled until two consecutive samples at each sampling location show the absence of total coliform.
12. The Permittee must instruct the engineer of record to request system clearance from the Department within sixty (60) days of completion of construction, testing and disinfecting the system. The Department will be unable to accept bacteriological analysis results for clearance of water lines if the analysis date for any one or more of the samples is in excess of sixty days from the date by which clearance is requested.

13. Where required by Chapter 471 (P.E.) or Chapter 492 (P.G.), Florida Statutes, applicable portions of permit applications and supporting documents submitted to the Department for public record shall be signed and sealed by the professional(s) who prepared them.

Operating Conditions:

14. The Permittee must operate and maintain this facility in accordance with the requirements of F.A.C. Rule 62-555.350.
15. After the construction has been cleared by the Department, the proposed water treatment modifications will change the water treatment classification of the plant from Category V, Class D, to Category III, Class C. Pursuant to F.A.C. Rule 62-699 operator staffing requirements. Pursuant to F.A.C. Rule 62-699.310(4), a Category III, Class C, plant with capacity in the 1.0 to 2.0 MGD range requires staffing by a Class C or higher operator 6 hours/day for 5 days/week and one visit on each weekend day.
16. The maximum day demand on the system for any twenty-four hour period may not exceed the permitted capacity of the water treatment plant. The Permittee must ensure that the capacity of the treatment plant and the distribution system facilities including pumps and pipes are increased as system demand is increased in order to maintain adequate capacity in the treatment plant and in order to maintain a minimum pressure of 20 psi throughout the distribution system pursuant to F.A.C. Rule 62-555.350(1).

Compliance:

17. The Permittee is required to monitor for primary and secondary contaminants listed in F.A.C. Rule 62-550, perform bacteriological monitoring as outlined in Rule 62-550.518 and is required to implement monitoring for the Unregulated Organic Contaminants when and as directed by the U.S. Environmental Protection Agency pursuant to F.A.C. Rule 62-555.400.
18. The Permittee must also abide by all federal rules, not promulgated by the state. Including but not limited to, the Long Term 2 Enhanced Surface Water Treatment Rule and the Stage 2 D/DBP Rule.
19. The Permittee shall provide an operation and maintenance manual for the new or altered treatment facilities to fulfill the requirements under subsection 62-555.350(13), F.A.C. The manual shall contain operation and control procedures, and preventative maintenance and repair procedures, for all plant equipment and shall be made available for reference at the plant or at a convenient location near the plant. Bound and indexed equipment manufacturer manuals shall be considered sufficient to meet the requirements of the subsection.
20. A laboratory certified by the State must perform all other compliance analyses and the Permittee must ensure that the analytical data submitted to the Department is in the departmental approved format pursuant to F.A.C. Rule 62-550.550.
21. This document satisfies Drinking Water permitting requirements only and does not authorize construction or operation of this facility before obtaining all other permits required by local, State and Federal agencies.

PERMITTEE: Colonial Manor Utilities

PERMIT NO.: 0268357-003-WC/MB

PROJECT: Addition of Centrally Located Nitrate Removal System to Treat Wells 1, 2, 3, 4, and 5

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION
DRINKING WATER PROGRAM

 FOR

Jeffrey S. Greenwell, P.E.

Water Facilities Administrator

Southwest District

13051 N. Telecom Parkway

Temple Terrace, FL 33637-0926

General Permit Conditions.

(1) The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to Sections 403.141, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.

(2) This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.

(3) As provided in Subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other department permit that may be required for other aspects of the total project which are not addressed in this permit.

(4) This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

(5) This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.

(6) The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, as required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

(7) The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:

- (a) Have access to and copy any records that must be kept under conditions of the permit;
 - (b) Inspect the facility, equipment, practices, or operations regulated or required under this permit;
- and
- (c) Sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

(8) If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:

- (a) A description of and cause of noncompliance; and
- (b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent

recurrence of the noncompliance. The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

(9) In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by Sections 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

(10) The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in Rule 62-302.500, shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard.

(11) This permit is transferable only upon Department approval in accordance with Rule 62-4.120 and 62-730.300, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.

(12) This permit or a copy thereof shall be kept at the work site of the permitted activity.

(13) This permit also constitutes:

- (a) Determination of Best Available Control Technology (BACT)
- (b) Determination of Prevention of Significant Deterioration (PSD)
- (c) Certification of compliance with State Water Quality Standards (Section 401, PL 92-500)
- (d) Compliance with New Source Performance Standards

(14) The permittee shall comply with the following:

(a) Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.

(b) The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

(c) Records of monitoring information shall include:

1. the date, exact place, and time of sampling or measurements;
2. the person responsible for performing the sampling or measurements;
3. the dates analyses were performed;
4. the person responsible for performing the analyses;
5. the analytical techniques or methods used;
6. the results of such analyses.

(15) When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

GENERAL PERMIT

INSTRUCTIONS FOR CLEARANCE

Requirements for clearance upon completion of projects are as follows:

1. Submission of a fully completed Department of Environmental Protection (DEP) Form 62-555.900(9) "Certification of Construction Completion and Request for Clearance to Place Permitted PWS Components into Operation".
2. The portion of record drawings showing deviations from the DEP construction permit, including preliminary design report or drawings and specifications, if there are any deviations from said permit. (Note that it is necessary to submit a copy of only the portion of record drawings showing deviations and not a complete set of record drawings.)
3. Copies of satisfactory bacteriological analysis (a.k.a. Main Clearance), taken within sixty (60) days of completion of construction, from locations within the distribution system or water main extension to be cleared, and in accordance with American Water Works Association (AWWA) Standard C 651-92, as follows:
 - Connection point to an existing system and at the end point of the proposed addition;
 - Any water lines branching off a main extension; and
 - Every 1,200 feet on straight run of pipes.

Each location shall be sampled on two consecutive days, with sample points and chlorine residual readings clearly indicated on the report. A sketch or description of all bacteriological sampling locations must also be provided.

4. Copy of satisfactory pressure test results demonstrating compliance with AWWA Standard requirements.

For further clarification contact:

Gwen Shofner, P.E., Program Manager
DEP – Southwest District
Drinking Water Section
13051 N. Telecom Parkway
Temple Terrace, FL 33637-0926

Phone: (813) 632-7600, extension 306
FAX: (813) 632-7671

Colonial Manor Utility Company

8/28/2007 2:43 PM

Register: 191 · Acquisition Adjustment

From 01/01/2004 through 08/28/2007

Sorted by: Date, Type, Number/Ref

<u>Date</u>	<u>Ref.</u>	<u>Payee</u>	<u>Account</u>	<u>Memo</u>	<u>Decrease</u>	<u>C</u>	<u>Increase</u>	<u>Balance</u>
12/31/2004	189		300 · Water Utility Plant	To allocate exc...			260,385.50	260,385.50
07/14/2005	184		300 · Water Utility Pla...	Utility Plant in ...	2,860.00			257,525.50

WATER TREATMENT PLANT - USED AND USEFUL DATA

Docket No. 030250-WU - Floralino Properties, Inc.

- 1) Capacity of Plant 900 gallons per minute
- 2) Maximum Day (179,800gal/1440*2) 249 gallons per minute
- 3) Fire Flow Capacity 500 gallons per minute
 - a) Required Fire Flow: 500 gallons per minute for 4 hours

- 4) Growth 0 gallons per minute
 - a) Test year Customers in ERCs:

Begin	726
End	726
Average	726

(Use average number of customers)
 - b) Customer Growth in ERCs using Regression 0 ERC
Analysis for most recent 5 years including
Test Year
 - c) Statutory Growth Period 5 Years
 $(b) \times (c) \times (2/a) = 0$ gallons per minute for growth

- 5) Excessive Unaccounted for Water 0 gallons per minute
 - a) Total Unaccounted for Water 7 gallons per minute
Percent of Average Daily Flow 0.008%
 - b) Reasonable Amount 7 gallons per minute
(10% of average Daily Flow)
 - c) Excessive Amount 0 gallons per minute

USED AND USEFUL FORMULA

$$[(2)+(3)+(4)-(5)]/(1) = **83.2\% \text{ Used and Useful}$$

** The utility is "built-out" and should be considered 100% used and useful.

Joseph Gabay

From: Hancock, Ed [Ed.Hancock@bankmercantile.com]
Sent: Saturday, June 23, 2007 9:00 AM
To: Joseph Gabay
Subject: RE: Financing
Follow Up Flag: Follow up
Flag Status: Purple

Joe,

First, thanks for getting us the financial information this week. We need to discuss the terms and that kind of thing but normally the rate in general, keeping in mind our relationship, would be say 7.35% to 7.50% and maybe .35% to .50% for the fee.

Thanks and let us hear from you.

Ed

From: Joseph Gabay [mailto:JGabay@uswatercorp.com]
Sent: Friday, June 22, 2007 3:36 PM
To: Hancock, Ed
Cc: Vickie Penick
Subject: Financing

Ed,

I know that you gave me this information a while back. Can you please update as we are submitting a proposed improvement plan for Colonial Manor's capital improvements, and we would estimate a need for approximately \$800,000 with 80% project funding.

What would the interest rate and loan fees be on something like this.

Thank you for your assistance.

Joe Gabay
Accounting Services Manager
U.S. Water Services Corporation
4939 Cross Bayou Boulevard
New Port Richey, FL 34652
Tel: 727-848-8292 x 212
Fax: 727-848-7701

8/29/2007



Jeb Bush
Governor

Department of Environmental Protection

Southwest District
3804 Coconut Palm Drive
Tampa, Florida 33619

Colleen M. Castille
Secretary

September 8, 2005

Mr. Gary Deremer
Colonial Manor Utilities
4939 Cross Bayou Boulevard
New Port Richey, FL 34652

Re: Warning Letter No. WN05-88-PWS-51-SWD
Nitrate Maximum Contaminant Level
Colonial Manor
PWS-ID No. 651-0355
Pasco County

Dear Mr. Deremer:

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

Our records indicate your system may have exceeded the maximum contaminant level for nitrate.

Rule 62-550.310(1)(a), Florida Administrative Code (F.A.C.), sets a maximum contaminant level for nitrate (as N) at 10 milligrams per liter.

Rule 62-550.300, F.A.C., requires public water systems take necessary corrective action, approved by the Department, to meet all applicable maximum contaminant levels.

You are requested to contact Ed Watson at (813) 744-6100, extension 319, within fifteen (15) days of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action, in accordance with Section 120.57(4), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely yours,

Deborah A. Getzoff
District Director
Southwest District

DAG/ew/dm

"More Protection, Less Process"

Printed on recycled paper.

U.S. Water Services Corporation

Water and Wastewater Utility Operations, Maintenance, Engineering, Management

September 12, 2005

Mr. Bruce E. Kennedy, P.E.
Assistant County Administrator
West Pasco Government Complex
Public Works/Utilities Bldg, Suite 213
7530 Little Road
New Port Richey, FL 34654

RE: Colonial Manor Utility
Wastewater Collection System
Holiday, Pasco County

Dear Mr. Kennedy:

Thank you for the opportunity to meet with me on September 8, 2005, to discuss the interim as well as long term measures to address the occurrence of nitrates in the source water at the potable water treatment plant serving the residents of the above-referenced community. As you may be aware, all the homes within the Colonial Manor community (a total of about 700 connections) are currently served by individual on-site (septic tank/drainfield) sewage treatment and disposal systems (OSTDS). We strongly believe that these OSTDS, located in close proximity to Colonial Manor Wellfield, are the sources of elevated levels of nitrates in the ground water wells. (Impact of On-site Sewage Disposal Systems on Surface and Ground Water Quality, IFAS, University of Florida, Report to Florida Department of Health and Rehabilitative Services, November, 1984; Onsite Sewage Disposal System Research in Florida- An Evaluation of Current OSDS Practices in Florida, A Report Prepared for State of Florida Department of Health and Rehabilitative Services, March 1993)

During our meeting, we both have reached an understanding that installing a central wastewater collection system at this community will be beneficial to both the community as well as to protect the underlying ground water resources and the environment. You also mentioned that, although the County does not have any immediate plans to provide sewer services to these areas of Pasco County, it is still the County's long-term goal to have all of these communities serviced by a central sewer collection system, provided, however, such communities provide the necessary funding.

Based on the foregoing, and in light of the occurrence of nitrates in some of the ground water supply wells, we believe that immediate measures should be taken to mitigate the adverse water quality impacts of these OSTDS on State (ground and surface) waters and to protect the water resources from further deterioration. To achieve this objective in an expeditious manner, we hereby request that the County relinquish its sewer utility service to Colonial Manor Utility in

Mr. Bruce E. Kennedy, P.E.
September 12, 2005

Page 2 of 2

areas where the Utility provides potable water service. Once the sewer service areas are released to the Utility, we will coordinate with the community, the Public Service Commission, and Pasco County Utilities the design, permitting, funding and construction of a wastewater collection system within a reasonable time frame.

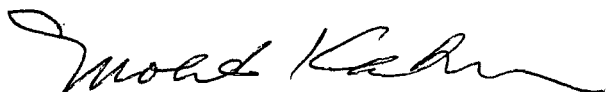
Should the above option prove infeasible, we would request that the County exercise its prerogative, under Section 110.113 of Article IV of the County Code, and notify Colonial Manor residents who are on OSTDS, of the availability of County's central sewer system, and require them to connect.

In the interim, we plan to address the outstanding nitrates issue by providing appropriate treatment at each well. We are currently in the design stage and will submit the plans for FDEP's approval upon completion. Concurrently, we will work with your Department to dispose of any by-product streams that might result during nitrate removal.

We sincerely appreciate the understanding and cooperation extended by you in resolving all issues of mutual concern in a constructive and professional manner. Your understanding of the site constraints and your willingness to work with Colonial Manor Utility to find a lasting and effective solution to the issues affecting the community and the receiving environment are very much appreciated.

Please feel free to contact me at your convenience should you have any questions. I can be reached directly at (727) 243-5875.

Sincerely,



Mohammed Kader, P.E.
Engineering Services Director
U.S. Water Services Corporation

MK/mkt

Cc: Gary Deremer, US Water
Jay Thabaraj, Ph.D., US Water
Ed Watson, FDEP
Deborah Getzoff, FDEP
Gwen Shofner, P.E., FDEP

U.S. Water Services Corporation

Water and Wastewater Utility Operations, Maintenance, Engineering, Management

September 15, 2005

Mr. Neal Forsman
Drinking Water Program
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RE: Colonial Manor Utility
Holiday, Pasco County
Request No. 667042W

Dear Mr. Forsman:

This is in response to the above-referenced request concerning the nitrates levels in the water supply. We want to let you know that Colonial Manor Utility has already taken steps to bring its water system into full compliance with all applicable regulatory requirements.

On September 8, 2005, U.S. Water, representing the Utility, met with Bruce Kennedy, the Assistant Pasco County Administrator, to discuss the interim as well as long term measures to address the occurrence of nitrates in the source water at the potable water treatment plant serving the residents of the above-referenced community. As you may be aware, all the homes within the Colonial Manor community (a total of about 700 connections) are currently served by individual on-site (septic tank/drainfield) sewage treatment and disposal systems (OSTDS). We strongly believe that these OSTDS, located in close proximity to Colonial Manor Wellfield, are the sources of elevated levels of nitrates in the ground water wells. (Impact of On-site Sewage Disposal Systems on Surface and Ground Water Quality, IFAS, University of Florida, Report to Florida Department of Health and Rehabilitative Services, November, 1984; Onsite Sewage Disposal System Research in Florida- An Evaluation of Current OSDS Practices in Florida, A Report Prepared for State of Florida Department of Health and Rehabilitative Services, March 1993)

Following the meeting, a letter, summarizing the outcome of the meeting (copy attached), was prepared and sent to Pasco County as well as the FDEP. In the letter, we proposed certain steps that need to be taken to address the nitrates issues at the wells.

The wells (Wells Nos. 1 and 4) that have shown elevated levels of nitrates have been taken out of service until treatment units are installed to remove the nitrates. The wells that are currently in

Mr. Neal Forsman
September 15, 2005

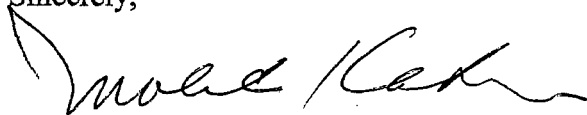
Page 2 of 2

use (Wells Nos. 2 and 3) meet the Drinking Water Standard for nitrates, which is 10.0 mg/l per Section 62-550.310, F.A.C. We also would like to inform you that we are currently in the design stage for treatment to remove nitrates and will submit the plans for FDEP's approval upon completion of the design.

Please let us know if this letter satisfies your concerns. We will keep you informed of the progress made to bring this utility into compliance with all applicable rules and regulations.

Please call me at 727-243-5875 if you have any questions. Your cooperation is most appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Mohammed Kader". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mohammed Kader, P.E.
Engineering Services Director
U.S. Water Services Corporaton

MK/mk
Attcahment
Cc: Gary Deremer, US Water

U.S. Water Services Corporation

Water and Wastewater Utility Operations, Maintenance, Engineering, Management
September 26, 2005

Ms. Lorrie Caravagio
3607 Berkshire Street
New Port Richey, FL 34652

RE: Colonial Manor Utility Company
Holiday, Pasco County, PSC Complaint No.667042W

Dear Ms. Caravagio:

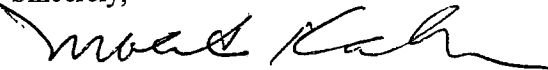
Thank you for the opportunity to discuss your concerns regarding the quality of water supplied by the Colonial Manor Utility Company. Specifically, you were concerned about the high levels of nitrates in the water supply and wanted to know what is being done about it.

As you mentioned during the telephone conversation with Dr. Jay Thabaraj of my staff today, please find attached our letters to Pasco County (September 12, 2005) and the Florida Public Service Commission (September 15,2005) explaining the actions being taken by Colonial Manor Utility Company to find an immediate as well as permanent solutions to the nitrate issue. As you know, we are scheduled to meet with the Florida Department of Environmental Protection on September 29, 2005, to apprise them of the current status of Colonial Manor Utility's measures to comply with the nitrate standard, and seek their assistance for a permanent resolution of the problem. We are sure you will agree that, both from environmental as well as public health standpoints, the most desirable solution to the existing ground water contamination is to connect all homes in the Colonial Manor area, which are on septic tanks, to a central sewer system. We are awaiting a response from Pasco County to the attached letter and will keep you informed of any progress made.

In the meantime, we are working on the design of an interim treatment system to treat well water for nitrates.

Please let us know, if you have any questions. Feel free to call me or Dr. Jay Thabaraj at (727) 848-8292, extension 217 should you have any questions. Thank you for your cooperation.

Sincerely,



Mo Kader, P.E.
Engineering Services Director
US Water Services Corporation

MK/mkt
Attachments
Gary Deremer, US Water
Neal Forsman, Florida PSC
Gwen Shofner, P.E., FDEP



4939 Cross Bayou Boulevard • New Port Richey, FL 34652
Phone: 727-848-8292 • Fax: 727-848-7701 • Toll Free: 866-753-8292



PASCO COUNTY, FLORIDA

DADE CITY (352) 521-4274
LAND O' LAKES (813) 996-7341
NEW PORT RICHEY (727) 847-8145
FAX (727) 847-8083

UTILITIES SERVICES BRANCH
PUB. WKS./UTILITIES BLDG., S-213
7530 LITTLE ROAD
NEW PORT RICHEY, FL 34654-5598

September 28, 2005

Mohammed Kader, P.E.
Engineering Services Director
U.S. Water Services Corporation
4939 Cross Bayou Boulevard
New Port Richey, FL 34652

Re: Colonial Manor Utility, Holiday, Pasco County

Dear Mr. Kader:

I received your September 12, 2005, letter regarding Colonial Manor. We share your concern of providing good quality water to the citizens of Pasco County and appreciate the seriousness of the exceedance of a water quality standard. Based on the general nature of the brief discussion we had, however, I do not believe we reached a mutual understanding of this problem nor a solution. Providing sewer to an established neighborhood, although likely beneficial to the homeowners, is an extremely costly option which may not necessarily correct your problem.

Providing sewer also does not seem to be warranted by what appears to be a one-time exceedance of the nitrate standard. For this and numerous other reasons, we do not feel it would be prudent for the County to relinquish its sewer utility service area to Colonial Manor Utility. As set forth in the current Pasco County Comprehensive Plan, it is the policy of the County to move away from providing sewer service to community areas through small, disbursed packaged plants in favor of a regionally based system which will benefit the County in terms of economy and reliability of service. Also, numerous other options to your problem would be more timely and far less costly than providing central sewer. Instituting a program to improve water treatment or relocate-deepen-improve wells, or blend water supplies are some such options. Getting water from another source is yet another option.

We will continue to work with you to find an effective solution to the issues you are facing. Please feel free to contact me if we can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce E. Kennedy", written over a horizontal line.

Bruce E. Kennedy, P.E.
Assistant County Administrator
(Utilities Services)

BEK/ltr/gkader

cc: John J. Gallagher, County Administrator

U.S. Water Services Corporation

Water and Wastewater Utility Operations, Maintenance, Engineering, Management

November 30, 2005

Ms. Mahnaz Massoudi, Engineer IV
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

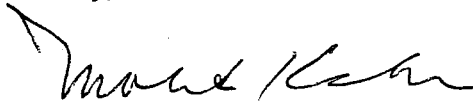
RE: Colonial Manor Utility
News Article – Tampa Tribune – November 25, 2005

Dear Ms. Massoudi:

For your records, please find attached a copy of the news article that was published in the Tampa Tribune on November 25, 2005, regarding the nitrates issues at Colonial Manor wells.

Please feel free to call me at (727) 243-5875 should you have any questions or need additional information.

Sincerely,



Mohammed Kader, P.E.
Engineering Services Director
U.S. Water Services Corporation

MK/mk

Attachment

Cc: Gary Deremer, US Water

Utility Has A Solution For Nitrates

By CHRISTIAN M. WADE cwade@tampatrib.com

Published: Nov 25, 2005

HOLIDAY - - A local utility has come up with a solution to remove high levels of nitrate from its wells, and customers ultimately will pick up the tab.

Colonial Manor Utilities wants to use a process known as anion exchange to resolve its long-standing water quality issues that have affected about 700 households in New Port Richey and the Holiday area.

Anion exchange, which pushes well water through a stationary filtration system, has proven highly effective in removing nitrates from contaminated wells.

The move is part of \$1.1 million in capital improvement projects aimed at rebuilding the private utility's aging drinking and wastewater distribution systems, which serve more than 2,000 households throughout west Pasco County.

Colonial President Gary Deremer said the company inherited many of the problems from Floralino Properties Inc., a development company that previously ran the utility.

"Some of the water distribution lines are more than 50 years old," he said. "The utility hadn't paid for any capital improvements in years. Something had to be done."

Colonial, which is managed by U.S. Water Services Corp., is one of several medium-sized companies that have been buying the rights to water distribution from development companies that lacked the funds or resources necessary to run utility systems.

The company plans to invest heavily on upgrades to the water distribution system, Deremer said, but many contamination problems could take years to resolve.

Customers likely will help pay for the upgrades. Colonial has applied to the state Public Service Commission for a rate increase to offset improvement costs.

For homeowners such as Roland Vandawalker, 73, a retiree who lives in New Port Richey with his wife, it means they will soon be paying more for drinking and wastewater service.

"We don't even drink the water; it tastes bad," Vandawalker said. "I'm an old man living on a fixed income. Why should I pay more for water I don't drink?"

Public Health Advisory

More than two months ago, the utility shut down two of its wells after high levels of nitrate were discovered during routine tests of its distribution system.

Company officials subsequently issued a public health advisory to affected customers, warning them not to give tap water to infants younger than 6 months.

The discovery of high levels of the potentially hazardous contaminant prompted an investigation by the state Department of Environmental Protection, which is negotiating a settlement with the utility to resolve water quality issues.

DEP officials say Colonial has a history of nitrate contamination in its wells, and they want assurances the company is working to fix the problem.

The state agency is testing two other wells in the utility's service area that previously had tested positive for high levels of nitrate. The tests, normally conducted once a year, are now being conducted every month, DEP and company officials said.

Deremer said company officials have been studying the problem and suspect the nitrate has been seeping into the water wells from failing septic systems in the neighborhood.

Significantly high nitrate levels in drinking water can be harmful to people and animals. Young children and pregnant or nursing women are particularly vulnerable.

The U.S. Environmental Protection Agency has set the federal standard for acceptable nitrate levels in public water at 10 milligrams per liter. Colonial's wells tested at 10.8 milligrams and 10.4 milligrams, respectively, before they were taken out of service. The two wells have since returned to acceptable nitrate levels, Deremer said, but company officials have decided to keep them shut down until further notice.

"It's a precautionary measure," he said.

Like many small, private utilities in Pasco County, Colonial has distribution lines that were installed decades ago to serve housing subdivisions.

Houses in the neighborhood are built on small lots with failing septic tanks.

Company officials have asked the county to replace the neighborhood's old septic tanks with a centralized sewer system, but the request was denied, Deremer said.

"The load in the septic system is increasing, but because the county refuses to do anything, we're just treating the pollutant rather than the source," he said.

Possible Contamination Sources

Bruce Kennedy, Pasco County's assistant administrator for utilities, said there are a number of possible causes of well contamination, including overuse of fertilizers.

"We have wells in the same area which don't have same problem," he said. "To jump to the conclusion that problems are solely related to septic tanks is irresponsible."

Kennedy said the utility could go before the county commission to formally request a franchise for a centralized sewer system, but that would be complicated.

"The county is not interested in granting new franchises," he said. "We've been trying to acquire private utilities, not promote the creation of additional ones."



MONTHLY OPERATION REPORT FOR SUMMATION OF FINISHED-WATER PRODUCTION BY CWSs THAT HAVE MULTIPLE TREATMENT PLANTS

See page 2 for instructions.

Daily Finished-Water Production for the Month/Year of:											November-05
Community Water System (CWS) Name: Colonial Manor											
Public Water System (PWS) Identification Number: 6510355											
Day of Month	Plant 1 Name	Plant 2 Name	Plant 3 Name	Plant 4 Name	Plant 5 Name	Plant 6 Name	Plant 7 Name	Plant 8 Name	Plant 9 Name	Plant 10 Name	Total
	Colonial Manor Well # 1	Colonial Manor Well # 2	Colonial Manor Well # 3	Colonial Manor Well # 4	Colonial Manor Well # 5						
	Permitted Maximum Day-Opening Capacity of Each Plant, gallons per day										
Net Quantity of Finished Water Produced by Each Plant, gallons											Total
1	-	102,000	-	-	0						102,000
2	-	112,000	-	-	0						112,000
3	-	111,000	-	-	0						111,000
4	-	131,000	-	-	0						131,000
5	-	131,000	-	-	0						131,000
6	-	131,000	-	-	0						131,000
7	-	120,000	1,000	-	0						121,000
8	-	120,000	1,000	-	0						121,000
9	-	121,000	-	-	0						121,000
10	-	121,000	-	-	0						121,000
11	-	33,000	74,000	-	0						107,000
12	-	33,000	74,000	-	0						107,000
13	-	33,000	74,000	-	0						107,000
14	-	31,000	81,000	-	0						112,000
15	-	30,000	81,000	-	0						111,000
16	-	30,000	59,000	-	0						89,000
17	-	30,000	59,000	-	0						89,000
18	-	31,000	75,000	-	0						106,000
19	-	31,000	75,000	-	0						106,000
20	-	31,000	75,000	-	0						106,000
21	-	25,000	75,000	-	0						100,000
22	-	25,000	74,000	-	0						99,000
23	-	26,000	62,000	-	0						88,000
24	-	25,000	62,000	-	0						87,000
25	-	30,000	75,000	-	0						105,000
26	-	30,000	75,000	-	0						105,000
27	-	30,000	74,000	-	0						104,000
28	-	25,000	72,000	-	0						97,000
29	-	24,000	72,000	-	0						96,000
30	-	22,000	47,000	-	0						69,000
31	-			-	0						0
Total											3,192,000
Avg											102,968
Max											131,000



**DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

Southwest District
3804 Coconut Palm Drive
Tampa, Florida 33619

FAX TRANSMITTAL SHEET

02/01/06
DATE

TO: Jay Thabaraj

TOTAL PAGES: 3 including coversheet

DEPT: _____

PHONE: _____

FAX NUMBER: 727-848-7701

FROM: Edward Watson

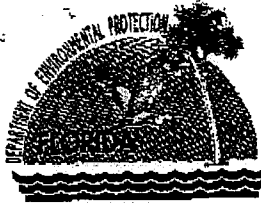
DEPT: Potable Water, Department of Environmental Protection

PHONE: (813) 632-7600 SC 514-9155

REFERENCE: Jay. Attached is the Warning Letter which I called you about.

MESSAGE: _____

REPLY: _____



Jeb Bush
Governor

Department of Environmental Protection

Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926
Telephone: 813-632-7600

Colleen M. Castille
Secretary

January 9, 2006

Mr. Gary Deremer
Colonial Manor Utilities
4925 Cross Bayou Boulevard
New Port Richey, FL 34652

Re: Warning Letter No. WN06-02-PWS-51-SWD
Construction Without a Permit / Unapproved Source
Colonial Manor
PWS-ID No. 651-0355
Pasco County

Dear Mr. Deremer:

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

Alteration or construction on piping from Well No. 5 to the Colonial Manor distribution system, without a valid Construction Permit, from the Department, may have occurred on or before December 12, 2005.

Rule 62-555.520, Florida Administrative Code (F.A.C.), requires you to obtain a signed, validated permit, from the Department, before beginning construction or alteration of any drinking water system. Drinking water system components include the collection, treatment, storage, and distribution segments of a public water system.

Well No. 5 is an unapproved source of water, which may have been introduced into the drinking water system.

Rule 62-555.350 (9), F.A.C., requires you to obtain a signed, validated permit, from the Department, before introducing a new source of water into any public water system.

"More Protection, Less Process"

Printed on recycled paper.

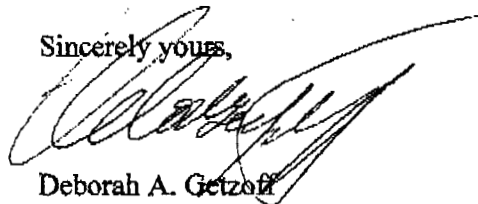
Mr. Gary Deremer
Colonial Manor Utilities
PWS-ID No. 651-0355
Page 2 of 2

The Department recommends that you immediately disconnect Well No. 5 from the distribution system until this matter is resolved.

You are requested to contact Ed Watson at (813) 632-7600, extension 319, within fifteen (15) days of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action, in accordance with Section 120.57(4), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely yours,



Deborah A. Getzoff
District Director
Southwest District

DAG/ps/dmc

#5 has always been connected. Leaking

Replaced gate valves

Check valves

new meter (replacement)

Required hydro pneumatic test

February 7, 2006

Ms. Gwen L. Shofner, P.E.
Program Manager
Drinking Water Program
Florida Department of Environmental Protection
Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926

RE: Warning Letter No. WN06-02-PWS-51-SWD
Colonial Manor; PWS-ID No.651-0355
Pasco County

Dear Ms. Shofner:

This is in partial response to the above-referenced Warning Letter, dated January 9, 2006, which was transmitted to us via facsimile on February 1, 2006.

As a follow-up to our meeting with you and other staff of the Drinking Water Program on February 3, 2006, I would like to assure you, on behalf of Colonial Manor, that Well No. 5 will not be used as a source of water for the Utility's distribution system without specific prior authorization from your Agency.

We are in the process of collecting information to address the other issues raised in your letter and will respond to them within thirty (30) days, as agreed.

Your continued cooperation is appreciated.

Sincerely,

Mohammed Kader, P.E.
Engineering Services Director
U.S. Water Services Corporation

GD/gdt

Cc: Deborah A. Getzoff Esq.
Craig McArthur, FDEP
Ed Watson, FDEP
Peter Screnock, FDEP
Gary Deremer, Colonial Manor
Melissa Rotteveel, US Water



Jeb Bush
Governor

Department of Environmental Protection

Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926
Telephone: 813-632-7600

Colleen M. Castille
Secretary

February 9, 2006

Mr. Gary Deremer
Colonial Manor Utilities
4939 Cross Bayou Boulevard
New Port Richey, FL 34652

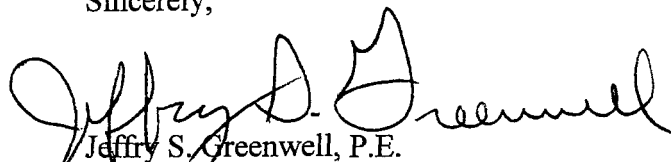
Re: Resolution of Warning Letter No. WN05-88-PWS-51-SWD (Enforcement Case)
Colonial Manor
PWS-ID No. 651-0355
Pasco County
OGC File No. 05-2698-51-PW

Dear Mr. Deremer:

The draft Consent Order regarding the above-referenced facility is enclosed. Please review and forward your comments within twenty (20) days from receipt of this letter. The magnitudes of the costs and expenses, incurred by the Department, and the civil penalties are not specified in the draft Consent Order. However, the schedule for payment of civil penalties will provide the option to reduce the penalty amount to \$0.00, excluding Department costs and expenses, based on timely implementation of the corrective measures itemized in Paragraph 8.

If you have any questions, please direct them to Ed Watson of the District Compliance/Enforcement Drinking Water Section at (813) 632-7600, extension 319.

Sincerely,


Jeffrey S. Greenwell, P.E.
Water Facilities Administrator
Southwest District

JSG/gs/dm^c

Enclosure

"More Protection, Less Process"

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BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

Complainant,

OGC FILE NO. 05-2698

vs.

U.S. Water Services Corporation

Respondent.

CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Protection ("Department") and U.S. Water Services Corporation ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent neither admits nor denies the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to administer and enforce the provisions of the Florida Safe Drinking Water Act, Sections 403.850, et seq., Florida Statutes, and the rules promulgated thereunder, Title 62, Florida Administrative Code. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a person within the meaning of Section 403.852(5), Florida Statutes.

3. Respondent is the owner and operator of Colonial Manor Utilities, a community public water system (System) serving approximately 2,500 persons, PWS No. 651-0355, located at Colonial Manor Subdivision, Moog Road, Pasco County, Florida. Latitude 28 degrees 12 minutes 22 inches North, Longitude 82 degrees 43 minutes 56 inches West. The System consists of four drinking water wells, each equipped with dedicated chlorinator and hydropneumatic storage tank, an with approximate combined capacity of 1.2 million gallons per day.

4. Respondent was notified of alleged violations of Chapter 403, F.S., and Chapter 62-550, F.A.C., in Warning Letter No. WN05-88-PWS-51-SWD, dated September 8, 2005. The findings cited included:

(a) Colonial Manor Well No. 1 was sampled by the Respondent August 29, 2005 for Nitrate; the analysis result was 10.8 milligrams per liter (mg/l). The Respondent took a Nitrate confirmation sample September 1, 2005; the analysis result was 10.3 mg/l.

Respondent violated Florida Administrative Code Rule 62-550.310 (1) (a), which establishes a maximum contaminant level for Nitrate of 10 mg/l.

(b) Colonial Manor Well No. 4 was sampled by the Respondent August 29, 2005 for Nitrate; the analysis result was 10.4 mg/l. The Respondent took a Nitrate confirmation sample September 1, 2005; the analysis result was 10.6 mg/l. Respondent violated Florida Administrative Code Rule 62-550.310 (1) (a), which establishes a maximum contaminant level for Nitrate of 10 mg/l.

(c) Colonial Manor Well No. 1 was sampled by the Respondent November 8, 2004 for Nitrate; the analysis result was 10.6 mg/l. Respondent violated Florida Administrative Code Rule 62-550.310 (1) (a), which establishes a maximum contaminant level for Nitrate of 10 mg/l.

5. Following the sampling events discussed in 4(a) and 4(b) above, Colonial Manor took Wells No. 1 and 4 out of service and issued Public Notification of the Nitrate violations to the System's customers. The System is currently supplying customers using Wells No. 2 and 3 only.

6. A review of historic monitoring results indicates that, since August 2003, Nitrate concentrations exceeding 9 mg/l have been reported five times for Well No. 2 and four times for Well No. 3.

7. The Department's findings in Paragraph 4 of this Consent Order constitute violations of Section 403.861(9), F.S., and Rule 62-550.310(1)(a), F.A.C. Along with the

monetary settlement reached to address the violations, corrective action under this Consent Order is required to remedy the violations as noted in Paragraph 4 of this Consent Order. Having reached a resolution of all pending issues concerning the System, the Department and Respondent mutually agree and it is

ORDERED:

8. Respondent shall comply with the following actions within the stated time periods.

(a) Within 60 days of the effective date of this Consent Order, Respondent shall submit a permit application and plans signed and sealed by a professional engineer to reduce Nitrate in the System to below half the maximum contaminant level. The Department and Respondent agree to expedite the permit application process in a manner such that request for and submittal of additional information shall not exceed 30 days in an effort to make the application complete.

(b) Within 90 days from issuance of a Department Construction permit, Respondent shall have completed the necessary work authorized in the Department permit above to reduce Nitrate in the System to below half the maximum contaminant level.

(c) Respondent shall monitor the System for Nitrate on a monthly basis for one year following the completion of the permitted activities authorized in 8(b) above. The monitoring will include sampling the raw water from each operational well and the finished water at the point of entry to the distribution system. The Department may approve a reduction in the monitoring frequency for raw and finished water following a year in which the annual average Nitrate level in the finished water is below half of the maximum contaminant level.

(d) Wells No.1 and 4 shall not be placed back into service without written approval of the Department.

(e) Wells No. 2 and 3 shall be tested monthly for Nitrate until the completion of item 8(b) above.

(f) In the event Nitrate testing in 8(e) above exceeds 10mg/l, Wells 2 and 3 shall be removed from service and the existing interconnect to Pasco County Utilities shall be activated to supply water to the System until the completion of item 8(b) above.

(g) Respondent shall give Public Notification of the Nitrate violations at least once every three months by mail delivery or by hand delivery until completion of item 8(b) above and demonstration the water system meets the Nitrate maximum contaminant level.

(h) In any event, by February 28, 2007 the Facility shall be in compliance with all Department rules and the requirements of this Consent Order or connected to Pasco County's Public Water System with all the System's wells removed from service.

9. Respondent agrees to pay the Department \$X to settle the violations discussed in 4(a) and 4(b) above. This amount includes \$X for costs and expenses incurred by the Department and \$X in civil penalties. Within 30 days of the effective date of this Consent Order, Respondent shall pay to the Department \$X for costs and expenses. The \$X in civil penalties will be reduced by \$X a month for each full month prior to February 28, 2007 that all the actions outlined in 8(a), 8(b), 8(c), 8(d), 8(e), 8(f), 8(g), and 8(h) have been completed to the Department's satisfaction. The civil penalties are apportioned as follows: \$X each for violation of Florida Administrative Code Rule 62-550.310(1)(a) at Colonial Manor Well No. 1 and Colonial Manor Well No. 4. All payments 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 File No. 052698 assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund". The payment shall be sent to the Department of Environmental Protection, Potable Water Section, 13051 North Telecom Parkway, Temple Terrace, Florida, 33637.

10. Respondent agrees to pay the Department stipulated penalties in the amount of \$500.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph 8 of this Consent Order. A separate stipulated penalty shall be

assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund". Payment shall be sent to the Department of Environmental Protection, 3804 Coconut Palm Drive, Tampa, FL 33619. 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. 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.

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

12. Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

- (a) The name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located;
- (b) A statement of how and when each petitioner received notice of the Consent Order;
- (c) A statement of how each petitioner's substantial interests are affected by the Consent Order;
- (d) A statement of the material facts disputed by petitioner, if any;
- (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order;

(f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order;

(g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 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 28-106.205, Florida Administrative Code.

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

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The

agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

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

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

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

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

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

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

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

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

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be

affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within fourteen days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

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

14. 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 403.859, Florida Statutes.

15. 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 \$5,000.00 per day per violation, and criminal penalties.

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

17. All submittals and payments required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection,

Gwen Shofner, P.E.

Drinking Water Program Manager

13051 North Telecom Parkway

Temple Terrace, Florida 33637

18. 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.

19. 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 addressed in this Consent Order.

20. Respondent acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 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, and waives that right upon signing this Consent Order.

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

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

23. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities, which may arise under Florida law, nor is it a settlement of any violation, which may be prosecuted criminally or civilly under federal law.

24. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, 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: _____

NAME

TITLE

DONE AND ORDERED this _____ day of _____, 2005

In Tampa, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Deborah A. Getzoff
District Director

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

Clerk

Date

Copies furnished to:
Lea Crandall, Agency Clerk, Mail Station 35

U.S. Water Services Corporation

Water and Wastewater Utility Operations, Maintenance, Engineering, Management

March 20, 2006

Ms. Gwen L. Shofner, P.E.
Program Manager
Drinking Water Program
Florida Department of Environmental Protection
Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926

RE: Warning Letter No. WN06-02-PWS-51-SWD
Colonial Manor; PWS-ID No.651-0355
Pasco County

Dear Ms. Shofner:

Pursuant to our telephone conversation today in reference to our earlier letter of 3/20/2006, this is to further affirm our intent to apply for the Department's prior authorization as may be required under Section 62-550.520(1), F.A.C., prior to introducing water from Well #5 into the water system. This was made clear in our February 7, 2006 response to the above-referenced Warning Letter, which indicated that Well #5 will **NOT** be put in service without prior authorization from the Department.

Your continued cooperation is most appreciated.

Sincerely,



Mohammed Kader, P.E.
Engineering Services Director
U.S. Water Services Corporation

MK/mkt

Cc: Deborah A. Getzoff Esq.
Craig McArthur, FDEP
Ed Watson, FDEP
Peter Screnock, FDEP
Gary Deremer, Colonial Manor
Melissa Rotteveel, US Water



4939 Cross Bayou Boulevard • New Port Richey, FL 34652
Phone: 727-848-8292 • Fax: 727-848-7701 • Toll Free: 866-753-8292

U.S. Water



Services Corporation

Water and Wastewater Utility Operations, Maintenance, Engineering, Management

March 20, 2006

Via Facsimile & US Mail

Ms. Gwen L. Shofner, P.E., Program Manager
Drinking Water Program
Florida Department of Environmental Protection
Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926

RE: Warning Letter No. WN06-02-PWS-51-SWD
Colonial Manor; PWS-ID No.651-0355
Pasco County

Dear Ms. Shofner:

This is a follow-up to our letter of February 24, 2006, to explain the status of Well #5 and the circumstances surrounding the Department's observation that alteration or construction on piping from the well may have occurred without a valid Construction Permit from the Department. The Department's Warning Letter further states that "Well #5 is an unapproved source of water, which may have been introduced into the drinking water system"

Colonial Manor Utility Company (the "Company") became owner of the above-referenced public water system on January 20, 2004. The system consists of five water supply wells, including Well #5 which was part of the system and was always "connected" as one of the five wells in the system. Since no water from the well was introduced into the distribution system, routine sampling was not performed. The monthly reports submitted to the Department reflected the fact that the well was always considered part of the system and could be commissioned into service at any time, subject to prior approval from the Department. Now that Wells #1 & #4 are not currently in use, the Company wants to use Well #5 as a source of water to the distribution system due to the good quality of water in the well including low levels of nitrates. It temporarily disconnected the well from the water system and began flushing it for several months and collecting samples for analysis of nitrates, chlorides, sodium and coliforms. At this stage, the Company contacted the Department to seek approval for using the well as a source of water to the distribution system. Department's inspection of the water system was performed on December 12, 2005, and the Warning Letter, stating that water from the well may have been introduced into the drinking water system, was sent on January 9, 2006.

In response to your observation that unauthorized alteration or construction of piping may have occurred, we wish to state that, as part of routine maintenance, the Company performed several repairs to the system, including replacement of corroded valves and fittings, flow meter, and sealing the hydro pneumatic tank for leaks. (Please note that the monthly reports submitted to the



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Ms. Gwen L. Shofner, P.E.
March 20, 2006

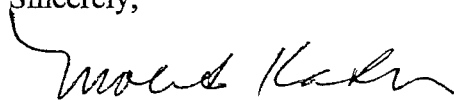
Page 2 of 2

Department reflect no or "0" flow from Well #5 and the new flow meter will attest to this). Based on Department's regulations (Chapter 62-555, F.A.C), the Company has not performed any work that requires a Department's Construction Permit or prior notification to the Department.

We hope we have addressed your concerns satisfactorily and look forward to working with you to provide our customers a safe supply of water that meets all regulatory requirements.

Your continued cooperation in resolving this matter is most appreciated.

Sincerely,



Mohammed Kader, P.E.
Engineering Services Director
U.S. Water Services Corporation

MK/mkt

Cc: Deborah A. Getzoff Esq.
Craig McArthur, FDEP
Ed Watson, FDEP
Peter Screnock, FDEP
Gary Deremer, US Water
Melissa Rotteveel, US Water
G. J. Thabaraj, Ph.D., US Water

TALLAHASSEE
Suite 200
1500 Mahan Drive
Tallahassee, Florida 32308
(850) 224-4070 Tel
(850) 224-4073 Fax

Nabors
Giblin &
Nickerson P.A.
ATTORNEYS AT LAW

TAMPA
The Pointe, Suite 1060
2502 Rocky Point Drive
Tampa, Florida 33607
(813) 281-2222 Tel
(813) 281-0129 Fax

April 27, 2006

By Facsimile and Email

Gwen Shofner, P.E.
Program Manager - Drinking Water Program
Florida Department of Environmental Protection
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926

Re: Colonial Manor Utilities - OGC File 05-2698

Dear Ms. Shofner:

Please be advised that Colonial Manor Utilities (my client) is in receipt of, and has reviewed with me, the above-referenced draft consent order. As a preliminary matter, I have been asked to reaffirm to the Department that my client currently is operating two wells (#2 and #3) which are in compliance with all standards including nitrates. These wells meet the current water demand. The two wells (#1 and #4) which were identified as having excess nitrate were removed from service immediately upon discovery on September 9, 2005. Based upon these facts, we remain concerned with the Department's suggestion that a Consent Order is appropriate under these circumstances.

In addition to the foregoing, we are concerned regarding the Department's desire to impose a maximum nitrate level which is half of the maximum contaminant level ("MCL") allowed pursuant to Department rules. To place a limit which is 200% more stringent than the standard appears arbitrary and burdensome.

Please be informed that Colonial Manor is researching all options to determine the most feasible option for achieving compliance with the nitrate MCL for Well Nos. 1 and 4, and these wells will remain off line until compliance can be achieved. We have been evaluating different technologies, including ion-exchange, for the removal of nitrates. We also have been in discussions with your Department as well as Pasco County regarding the disposal of spent regenerant ("brine") produced during ion-exchange treatment and have requested, on March 31, 2006, a determination from your Department for discharge to a drainfield. We believe that our request for a drainfield discharge should be granted by the Department due to the small volume of the discharge and the insignificant impact on the environment.

As you are aware, my client wishes to bring an additional existing well (#5) on line as substitute capacity for wells #1 and #4. US Water recently repaired both the mechanical equipment and control system on Well # 5. The well has been purged and sampled. This well is ready for immediate service and would be an excellent source of water as it is (a) a deeper well and (b) has the least potential to be influenced by groundwater pollution since the area upstream of the well is served by sanitary sewers. The water samples tested from this well indicated absolute compliance with State Standards. This matter has been discussed with your staff. Department authorization for placing well # 5 in service as requested would be appreciated.

As I noted above, my client is able to meet water capacity requirements by using Well Nos. 2 and 3 which are in compliance with the nitrate standard. With the use of well #5, Colonial Manor Utility will have additional flexibility and system reliability. In addition, my client maintains two existing water interconnections with the Pasco County water system that are available for use in the event of any emergencies. For these reasons, we do not believe that it is appropriate to require my client to meet tight time frames for restoring out of service wells into service. Paragraph 8 of the order should be deleted. However, Colonial Manor Utilities hereby voluntarily agrees to the monthly testing indicated in 8(e). Should there be any exceedance, Colonial Manor Utilities will comply with the Department's rules.

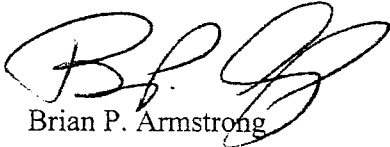
We also suggest that if a Consent Order must be issued, and we wish to avoid one, the draft provided to us should also be amended to provide flexibility to the Utility to commission Well# 1 or #4 into service, as a supplemental source of water to satisfy fireflow demand, when on-going nitrate monitoring shows consistent compliance with the Maximum Contaminant Level. Regarding paragraph 8(c), my client requests that the Department permit the testing protocol be the normal protocol indicated in the Department's rules for Well Nos. 1 and 4 if placed in service after achieving compliance with the nitrate standard, as opposed to permitting the Department to simply "consider" a reduction in the monitoring frequency.

It is well known that the cause of the nitrate problem is the widespread use of on-site sewage disposal systems (septic tanks) by residential developments in and around the Colonial Manor subdivision. Wastewater service falls within the service area of Pasco County yet the County has no plan for providing service to this densely populated area of over 2200 customers. On September 12, 2005, Colonial Manor Utilities requested that Pasco County relinquish authority to my client to provide wastewater service to my client's water customers with on-site septic systems which are adversely impacting the quality of the groundwater. That request was denied. Therefore, my client does not at this time have the ability to mitigate the source problem. Lack of planning as well as failure to take corrective actions by concerned regulatory and other governmental agencies have created an unreasonable economic burden on my client's customers, not to mention the environmental degradation and public health risks created by this unseen and widespread pollution of groundwater. We reiterate our concern that the nitrate contamination of source (ground) water is a long term, area-wide problem that calls for a regional solution. Action by and cooperation between local, regional and state agencies is needed to remediate the problem. In the past, and at this time, there appears to be little government concern regarding the pollution of groundwater by septic tanks in the area, to the detriment and expense of my client's customers.

Please be assured that my client and its contract operator, U.S. Water Services Corporation, hold the public health and welfare as their paramount concerns. Additionally, they are protective of their customers' investment in this system and wish to insure that they are able to continue to serve their customers at the most reasonable rates possible, as required by the Florida Public Service Commission.

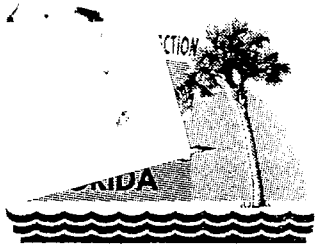
We would appreciate your consideration of the comments made in this letter and respectfully request that you call me at your earliest convenience to discuss the questions contained herein. In addition, my client requests that a meeting date and time be established to discuss these issues further if the Department persists in requesting a consent order. As always, your assistance and consideration is appreciated.

Very truly yours,



Brian P. Armstrong

cc: Deborah Getzoff
Gary Deremer
Mo Kaden
Jay Thabaraj
Troy Rendell



Jeb Bush
Governor

Department of Environmental Protection

Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926
Telephone: 813-632-7600

Colleen M. Castille
Secretary

May 9, 2006

Mr. Mohammed Kader, P.E.
U.S. Water Service Corporation
4939 Cross Bayou Boulevard
New Port Richey, Florida 34652

Re: Industrial Wastewater Permitting Determination
Colonial Manor Utility
Pasco County

Dear Mr. Kader:

Reference is made to your letter received on April 4, 2006, in which you requested information concerning whether an industrial wastewater permit or exemption for the above referenced facility is required. Upon review of the information submitted and to further evaluate your request, the industrial wastewater section of the Department requests that you submit additional information as itemized below:

1. Please provide the manufacturer's specifications for the ion-exchange units proposed for this activity. Also, provide the calculations showing the amount of projected volume of spent regenerant produced per unit per day.
2. Please provide the Department with analytical data showing the chemical characterization of the wastewater stream.
3. According to your letter, spent regenerant from each treatment unit will be disposed of via an on-site drain field. Please provide the Department with the following:
 - a. Name, size, location, and contact information of the on-site drain field where the wastewater will be land applied.
 - b. Site map showing the location of the facility, the drain field, potable and private water supply wells within 500 feet from the drain field.
 - c. Facility flow diagram showing all the waste streams going to the drain field.
4. Are there additives or chemicals used in the proposed activity? If so, please provide the Materials Safety Data Sheet(s) for any additives or chemicals used.

"More Protection, Less Process"

Printed on recycled paper.

PERMIT DETERMINATION REQUEST APPLICANT: Mr. Mohammed Kader, P.E.
FACILITY: Colonial Manor Utility

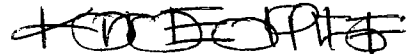
5. Please clarify whether the process generates a continuous or intermittent wastewater.
6. Will there be appropriate Best Management Practices (BMPs) proposed or implemented to ensure proper operation of this activity?
7. Indicate if this wastewater can be contained and hauled off to an approved treatment/disposal system.

Processing of your permit determination request will be held in abeyance until the Department receives satisfactory response to this letter.

The Southwest District, Industrial Wastewater Program is initiating an electronic permitting process, which will provide a more efficient way of handling all correspondence with consultants, applicants, and permittees. If you would like to be part of this process, please provide your email address to the Department.

Thank you for your inquiry about the disposal requirements for this type of wastewater. Please contact me at (813) 632-7600, extension 400, if you have any questions concerning this matter.

Sincerely,



Karol Totaitive
Permitting Engineer
Industrial Wastewater Program

TALLAHASSEE
Suite 200
1500 Mahan Drive
Tallahassee, Florida 32308
(850) 224-4070 Tel
(850) 224-4073 Fax

Nabors
Giblin &
Nickerson P.A.
ATTORNEYS AT LAW

TAMPA
The Pointe, Suite 1060
2502 Rocky Point Drive
Tampa, Florida 33607
(813) 281-2222 Tel
(813) 281-0129 Fax

May 17, 2006

By Electronic And Regular Mail

Gwen Shofner, P.E.
Program Manager - Drinking Water Program
Florida Department of Environmental Protection
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926

Re: Colonial Manor Utilities - OGC File 05-2698


Dear Ms. Shofner:

I have spoken with my client regarding our conversation yesterday as well as our recent conversations regarding scheduling a meeting with Department of Environmental Protection ("DEP") representatives concerning the above referenced matter. My clients and I are puzzled as to your indication that the DEP and Colonial Manor representatives are on different wavelengths. Whether or not a notice of violation is to be issued, as you indicated yesterday, we believe a meeting would be useful. In order to best prepare for such a meeting with your office, could you please send me your thoughts in writing explaining your comment. We would like to be sure that we have all of the facts upon which DEP is relying in this matter.

Please be advised that my client has spoken with state utility consumer advocates and, upon explaining the situation, such advocates are prepared to support my client's position. The bottom line with us is that the wells with temporary exceedances are offline and other wells are currently providing service, supported by backup water supply interconnect agreements with a third party. My client's may be prepared to conduct some additional studies concerning the wells which are currently offline and to investigate other potential treatment methods to produce the best quality of water from wells in that area. However, we remain puzzled that the DEP may believe that my client should be ordered to place the wells that are currently offline, back online and to treat the water to levels for more stringent than the maximum contaminant levels which otherwise apply.

If you are able to place your thoughts and associated facts in writing promptly, my client has indicated that its representatives will be available to meet with you and other DEP representatives during the third week of June, 2006. I look forward to your reply to this request. Please do not hesitate to call me if you have any further questions in this regard.

Very truly yours,



Brian P. Armstrong

cc: Gary Deremer
Jay Thabaraj

TALLAHASSEE
Suite 200
1500 Mahan Drive
Tallahassee, Florida 32308
(850) 224-4070 Tel
(850) 224-4073 Fax

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May 17, 2006

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Gwen Shofner, P.E.
Program Manager - Drinking Water Program
Florida Department of Environmental Protection
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926

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Very truly yours,



Brian P. Armstrong

cc: Gary Deremer
Jay Thabaraj

U.S. Water Services Corporation

Water and Wastewater Utility Operations, Maintenance, Engineering, Management

July 21, 2006

J.M. Farley
Interim District Director
Southwest District
Florida Department of Environmental Protection
13051 N. Telecom Parkway
Temple Terrace, FL 33637-0926

Re: Colonial Manor Utilities – OGC File No. 05-2698

Dear Mr. Farley,

This letter is for the purpose of written notification to FDEP of our client's receipt of the Notice of Violation referenced above and to serve as a request to exercise the right to negotiate a mutually agreeable Consent Order. As you may be aware U.S. Water Services, on behalf of Colonial Manor, has been in telephone contact with FDEP for the purpose of seeking a convenient meeting date, which as of yet has not been set. We are hopeful that an agreement can be reached; however, should negotiations fail, our client will seek other remedies available under Florida Statutes.

We appreciate your consideration on this matter.

Sincerely,



Dave Schultz, Sr.
Senior Vice President

CC: Office of General Counsel FDEP
Gwen Shofner, P.E., FDEP
Moe Kader, P.E., U.S. Water Services Corp.



Water and Wastewater Utility Operations, Maintenance, Engineering, Management

Lee Crandall, Agency Clerk
Department's Office of General Counsel
3900 Commonwealth Blvd MS-35
Tallahassee, FL 32399-3000

July 28, 2006

Dear Ms. Crandall,

Re: Notice of Violation
OC6 File No. 05-2698

This letter is to inform your office that in response to the above Notice of Violation we have requested a meeting through Craig McArthur of FDEP, which is to be set by FDEP sometime after August 14, 2006, for the purpose of negotiating a mutually agreeable CONSENT ORDER. We request a time extension of 90 days to allow this to occur.

Should such negotiations be unsuccessful, by this letter, we wish to notify your office of our intent to request a FORMAL HEARING at the end of the above 90 day period on behalf of our client Colonial Manor Utilities Company.

Please contact this office with any questions or comments regarding the above.

Sincerely,

A handwritten signature in black ink, appearing to read "David B. Schultz", written over a horizontal line.

David B. Schultz
Sr. Vice President

**CC: Gwen Shofner, P.E., FDEP SWDIST
Craig McArthur
Mo Kader
Gary Deremer**

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF GENERAL COUNSEL**

3900 Commonwealth Boulevard, M.S. 35
Marjory Stoneman Douglas Building
Tallahassee, Florida 32399-3000

FACSIMILE TRANSMITTAL

To: Jay Thabaraj

Fax: (727) 848-7701

From: Ronni Moore
Assistant General Counsel

Phone: (850) 245-2193

Fax: (850) 245-2301

Sender: same

Pages: 3 Pages, Including Cover

Date: October 26, 2006

Re: Department of Environmental Protection v. U.S. Water Corporation;
DOAH Case No: 06-4121EF
OGC Case No.: 05-2698

Comments: Unilateral Response to Initial Order

Original WILL follow VIA United States Postal Service

Federal Express

Original will NOT follow

The information contained in this facsimile message is attorney privileged and confidential, intended only for the use of individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify sender by telephone and return the original to us at the above address via United States Postal Service.

SUMMARY OF PROCEDURES

This case has been filed with the Division of Administrative Hearings to conduct an evidentiary hearing governed by Chapter 120, Florida Statutes, and Chapter 28-106, Parts I and II, Florida Administrative Code.

THE PARTIES SHALL TAKE NOTICE THAT:

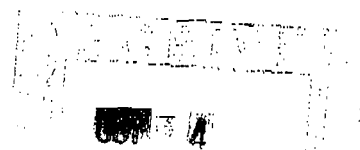
1. Discovery may be undertaken in the manner provided in the Florida Rules of Civil Procedure and, if desired, should be initiated immediately. Subpoenas may be obtained from the Judge by contacting (850) 488-9675, extension 111. Discovery must be completed 5 days before the date of the final hearing unless an extension of time for good cause is granted.
2. The government agency for whom a hearing is conducted will make arrangements for preserving the testimony at the final hearing.
3. A party may appear personally or be represented by an attorney or other qualified representative, pursuant to Rule 28-106.106, Florida Administrative Code.
4. Rule 28-106.210, Florida Administrative Code, provides that requests for continuances must be filed with the Judge at least 5 days prior to the date of hearing, except in cases of extreme emergency, and will only be granted for good cause shown.
5. Parties will promptly notify the Judge in the event of a settlement or other development which might alter the scheduled hearing.
6. The parties are expected to discuss the possibility of settlement, enter into pre-hearing stipulations of fact and law, identify and limit issues, and exchange exhibit and witness lists prior to the hearing.
7. If all parties agree, this case may proceed as a summary hearing, without discovery, if requested by motion within 15 days from the date of this Order. A Final Order will be entered within 30 days after the hearing.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Judge's secretary no later than seven days prior to the hearing. The Judge's secretary may be contacted at the address or telephone numbers on page one, via 1-800-955-8770 (Voice), or 1-800-955-8771 (TDD) Florida Relay Service.

COPIES FURNISHED:

Ronda L. Moore, Esquire
(850) 245-2193

Gary Deremer
(727) 848-8292





Water and Wastewater Utility Operations, Maintenance, Engineering, Management

November 14, 2006

Ms. Gwen Shofner, P.E.
Drinking Water Program Manager
Florida Department of Environmental Protection
13051 No. Telecom Parkway
Temple Terrace, FL 33637-0926

RE: Colonial Manor Utility – PWS ID #6510355
NOV File #05-2698

Dear Ms. Shofner:

This is to thank you and your staff for the opportunity to meet with us on August 17, 2006, to discuss the issues with the above-referenced Notice of Violation (NOV) and to review the short term and long term options available to the facility to comply with your Agency's requirements.

Although the participants in the meeting were unable to agree on several key issues, it was good to discuss the differences. Since the meeting, we have completed our design and submitted a complete permit application to construct treatment systems for Nitrates reduction at Wells #1 and #4. The permit application was submitted to your office on September 15, 2006, and is currently pending approval by your agency.

We also talked via telephone sometime after the meeting, to discuss whether or not Mr. Deremer, as the principle owner of Colonial Manor Utilities, was committed to moving forward with treatment on Wells #1 and #4, before putting them back in service. Also, during that conversation we had a brief discussion as to the importance of Well #5 and the administrative approach to placing that well back into service, "a make or break" hurdle to resolving the NOV issues outside of the formal hearing process.

I would like to propose a solution to the outstanding differences, as follows:

1. FDEP will approve the nitrate treatment system technology as submitted by application on September 15, 2006, and as now revised per FDEP comments dated September 29, 2006, for Wells #1 and #4. These treatment systems, as currently sized, are estimated to cost approximately \$150,000.00 per well site. The expenditure of \$300,000 for treatment systems has been included in the Colonial Manor PSC rate case, filed in August 2006.
2. Provided that FPSC approval is granted, Colonial Manor will commit to installing the proposed treatment system on Well #1. In addition, a new but separate FDEP permit application will be

4939 Cross Bayou Boulevard ≈ New Port Richey ≈ Florida 34652

Phone 727-848-8292 ≈ Fax: 727-848-7701 ≈ Toll Free: 866-753-8292

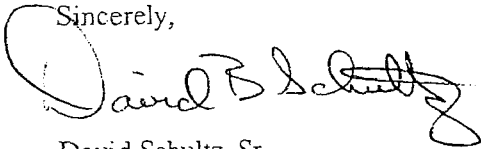
submitted to install a nitrate treatment system at Well #5 in lieu of well #4, with the understanding from FDEP that such treatment will satisfy all applicable regulatory requirements for placing the Well #5 in service.

3. Colonial Manor will not utilize Well #4 as a water source for Colonial Manor customers until such time as FDEP approves such usage. Although not utilized, this well will continue to be sampled, reported, and shown at zero flow.
4. FDEP will withdraw its directive that Colonial Manor customers be continually notified of water quality exceedences for Colonial Manor well(s), which are not in use as a water supply.

On behalf of Colonial Manor, U.S. Water requests that your department consider this proposal as a viable means for resolving the most difficult issues of the NOV. We believe this proposal represents a method for moving forward in an expeditious manner, without the time and controversy of further due process and offers little impact on the pending rate case.

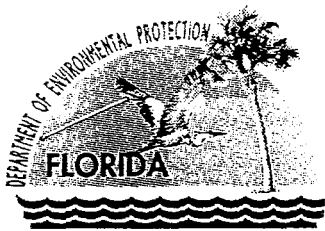
Please contact me with your thoughts on this matter.

Sincerely,



David Schultz, Sr.
Senior Vice President
U.S. Water Services Corporation

DS/ds
CC: Gary Deremer
Ronni Moore



Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Colleen M. Castille
Secretary

Ronda L. Moore
Assistant General Counsel
3900 Commonwealth Blvd., MS 35
Tallahassee, Florida 32399-3000
Ph. 850-245-2193
Fax 850-245-2301
ronni.moore@dep.state.fl.us

December 6, 2006

2204

Mr. David Schultz, Sr.
U.S. Water Services Corp.
4939 Cross Bayou Boulevard
New Port Richey, FL 34652

Re: November 14, 2006 proposal - Colonial Manor Utility, PWS-ID No. 651-0355;
Pasco County; OGC File No. 05-2698-51-PW

Dear Mr. Schultz:

This correspondence is in response to your November 14th proposal to remedy the issues outlined in the Department's July 13, 2006 Notice of Violation with regards to Wells No. 1, 4, and 5. Since your letter the Department has amended its Notice of Violation to include the nitrate MCL exceedances found in Well No. 2. Enclosed for your convenience is a copy.

The Department continues to look forward to the amicable resolution of this case and proposes that in addition to installing treatment on Wells No. 1 and 5 as outlined in your letter, that you also install treatment on Well No. 2.

Please let me know by December 15 whether this proposal is acceptable to you. If so, we can enter into a consent order to resolve this case. Thank you for your attention to this matter and feel free to contact me should you have any questions.

Sincerely,

Ronni Moore

Encl.

cc: Gwen Shofner, SED

"More Protection, Less Process"

Printed on recycled paper.



Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

*Copy: Dave SR
Gary
Ken
Mo.*

Colleen M. Castille
Secretary

Ronda L. Moore
Assistant General Counsel
3900 Commonwealth Blvd., MS 35
Tallahassee, Florida 32399-3000
Ph. 850-245-2193
Fax 850-245-2301
ronni.moore@dep.state.fl.us

December 20, 2006

The Honorable Bram D. E. Canter
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Re: State of Florida Department of Environmental Protection vs. Colonial Manor Utility, Co.;
Case No. 06-4121EF

Dear Judge Canter:

Enclosed please find the Department's First Amended Notice of Violation, Orders for Corrective Action and Administrative Penalty Assessment ("Amended NOV") in Case No. 06-4121EF, which Respondent, Colonial Manor Utility Co., received on November 29, 2006.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronda L. Moore".

Ronda L. Moore
Assistant General Counsel

Encl.

cc: Colonial Manor Utility Co. ✓

"More Protection, Less Process"

Printed on recycled paper.

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

Complainant,

vs.

OGC FILE No. 05-2698

COLONIAL MANOR UTILITY CO.,

Respondent,

FIRST AMENDED NOTICE OF VIOLATION
ORDERS FOR CORRECTIVE ACTION AND ADMINISTRATIVE PENALTY
ASSESSMENT

TO: Colonial Manor Utility Co.
c/o Victoria Penick, Registered Agent
5525 Berkley Rd.
New Port Richey, FL 34652

Certified Mail Number 7006 0810 0005 2598 2722

Pursuant to the authority of Section 403.121(2), Florida Statutes ("Fla. Stat.") the State of Florida Department of Environmental Protection ("Department") gives notice to Colonial Manor Utility Co. ("Respondent") of the following findings of fact and conclusions of law with respect to violations of Chapter 403, Fla. Stat.

FINDINGS OF FACTS
PARAGRAPHS APPLICABLE TO ALL COUNTS

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, Fla. Stat., and the rules promulgated thereunder in Florida Administrative Code ("Fla. Admin. Code") Title 62.

2. Respondent is the owner of a community water system serving approximately 2,500 persons, PWS No. 651-0355, located at Colonial Manor Subdivision, Mog Road, Pasco County, Florida, Latitude 28 degrees 12 minutes 22 inches North, Longitude 82 degrees 43 minutes 56 inches West ("System").

3. The System consists of four approved drinking water wells ("Wells No. 1, 2, 3, and 4"), each equipped with dedicated chlorinator and hydropneumatic storage tank, and with an approximate combined capacity of 1.2 million gallons per day.

4. The System serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

5. Rule 62-550.310, Fla. Admin. Code, provides that all public water systems shall not exceed the primary inorganic nitrate maximum contaminant level of 10 milligrams per liter ("mg/l").

6. Wells No. 1 and 4 exceeded the maximum contaminant level for nitrate. Respondent issued public notification to its customers that the System exceeded the maximum contaminant level for nitrate and took Wells No. 1 and 4 out of service.

7. Well No. 2 exceeded the maximum contaminant level for nitrate. Respondent issued public notification to its customers that the System exceeded the maximum contaminant level for nitrate, but did not take Well No. 2 out of service.

8. The System is currently supplying drinking water using Wells No. 2 and 3 only. A review of historic monitoring results of Well No. 3 indicates that, since August 2003, nitrate concentrations exceeding 9 mg/l, but less than 10mg/l, have been reported five times for Well No. 2 and five times for Well No. 3.

9. During a Department inspection of the System on October 12, 2005, the

Department observed that a fifth well ("Well No. 5") was not physically connected to the System's water distribution network.

10. A Department inspection on December 15, 2005 showed that Well No. 5 had been physically connected to the System's water distribution network.

11. The Department has not issued a permit authorizing construction to Well No. 5 and has not authorized the use of Well No. 5.

12. The Department has not received monthly, annual, or triennial sampling results from Well No. 5 since 1992.

COUNT I - WELL NO. 2 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

13. Respondent sampled Well No. 2 on October 11, 2006 for nitrate. The analysis result was 12.0 mg/l.

14. Respondent took a nitrate confirmation sample on October 30, 2006. The analysis result was 9.94 mg/l.

COUNT II - WELL NO. 1 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

15. Respondent sampled Well No. 1 on August 29, 2005 for nitrate. The analysis result was 10.8 mg/l.

16. Respondent took a nitrate confirmation sample on September 1, 2005. The analysis result was 10.3 mg/l.

COUNT III - WELL NO. 4 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

17. Respondent sampled Well No. 4 on August 29, 2005 for nitrate. The analysis result was 10.4 mg/l.

18. Respondent took a nitrate confirmation sample on September 1, 2005. The

analysis result was 10.6 mg/l.

COUNT IV - WELL NO. 1 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

19. Respondent sampled Well No. 1 on November 8, 2004 for nitrate. The analysis result was 10.6 mg/l.

COUNT V - ALTERATION OR CONSTRUCTION TO WELL NO. 5
WITHOUT A PERMIT

20. Alteration or construction on connecting piping from unapproved Well No. 5 to the System's distribution system occurred on or before December 12, 2005 without a Department permit or clearance letter.

COUNT VI - COSTS AND EXPENSES

21. The Department has incurred expenses to date while investigating this matter in the amount of not less than \$2,000.00.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapter 403, Fla. Stat. and Fla. Admin. Code Title 62. Based on the foregoing facts the Department has made the following conclusions of law:

22. Respondent is a "person" as defined in Section 403.852(5), Fla. Stat.

23. Respondent is the owner of the water system and is a "supplier of water" as defined in Section 403.852(8), Fla. Stat.

24. Respondent's water system is a "public water system" and is a "community water system" as defined in Sections 403.852(2) and (3), Fla. Stat., respectively. The water system draws water from the Floridan Aquifer and thus is also a "ground water system," as that term is used in Fla. Admin. Code Chapters 62-550 and 62-555.

25. The Department is imposing an administrative penalty of less than or equal to \$10,000.00 in this Notice of Violation as calculated in accordance with Section 403.121, Fla. Stat.

26. The facts in Count I constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. Rule 62-550.512(3)(a), Fla. Admin. Code, provides that compliance shall be determined based on the average of the initial and confirmation samples. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

27. The violation in Count I requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding a maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

28. The facts in Count II constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. Rule 62-550.512(3)(a), Fla. Admin. Code, provides that compliance shall be determined based on the average of the initial and confirmation samples. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

29. The violation in Count II requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that

was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

30. The facts in Count III constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. Rule 62-550.512(3)(a), Fla. Admin. Code, provides that compliance shall be determined based on the average of the initial and confirmation samples. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

31. The violation in Count III requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

32. The facts in Count IV constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

33. The violation in Count IV requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

34. The facts in Count V constitute a violation of Rule 62-555.520, Fla. Admin. Code,

which requires a construction permit from the Department prior to construction or alteration of any public water system component. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

35. The violation in Count V requires an assessment of an administrative penalty of \$3,000.00 under Section 403.121(4)(c), Fla. Stat.

36. The Department cannot impose penalties in excess of \$10,000.00 in a Notice of Violation. The total administrative penalty is therefore capped at \$10,000.00.

37. The costs and expenses related in Count VI are reasonable costs and expenses incurred by the State while investigating this matter, which are recoverable pursuant to Section 403.141(1) Fla. Stat.

ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged in this Notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent either files a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121(2)(c), Fla. Stat., or files written notice with the Department opting out of this administrative process, pursuant to 403.121(2)(c), Fla. Stat. (See Notice of Rights). If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's Order pursuant to Sections 120.69, 403.121 and 403.131, Fla. Stat.

Pursuant to the authority of Sections 403.061(8) and 403.121, Fla. Stat., the Department proposes to adopt in its Final Order in this case the following specific corrective actions that will

redress the alleged violations:

38. Respondent shall forthwith comply with all Department rules related to community water systems. Respondent shall correct and redress all violations in the time periods required below and shall comply with all applicable rules in Fla. Admin. Code Chapters 62- 550 and 62-555. All documents, reports, and test results that are required to be submitted to the Department shall be submitted to: Gwen Shofner, P.E., Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

39. Within 60 days of the effective date of this Order, Respondent shall submit a permit application and plans signed and sealed by a professional engineer to reduce the levels of nitrate in Wells No. 1, 2, and 4 to below the maximum contaminant level.

40. Within 90 days from issuance of a Department Construction permit, Respondent shall have completed the permitted work authorized in the Department permit to reduce the level of nitrate in the System to below the maximum contaminant level.

41. Respondent shall not distribute any water from Wells No. 1 and 4 to the water distribution network of the System until it receives the following:

- (a) a construction permit pursuant to Rule 62-555.520, Fla. Admin. Code, and
- (b) a clearance letter pursuant to Rule 62-555.345, Fla. Admin. Code, to place Wells No. 1, and 4 into service.

42. In the event nitrate maximum contaminant levels exceed 10 mg/l in Well No. 3, Well No. 3 shall be removed from service and the existing interconnect to Pasco County Utilities shall be activated to supply water to the System until the requirements in paragraphs 39 and 40 above are completed to reduce the levels of nitrate to below the maximum contaminant level.

43. Within 180 days of the effective date of this Order, Respondent's System shall be

in compliance with all Department nitrate standards and the requirements of this Order or the System shall be connected to Pasco County's Public Water System, with all the System's wells physically disconnected and removed from service.

44. Respondent shall not distribute any water from Well No. 5 to the System until it receives the following:

- (a) a construction permit pursuant to Rule 62-555.520, Fla. Admin. Code, and
- (b) a clearance letter, pursuant to Rule 62-555.345, Fla. Admin. Code, to place Well No. 5 into service.

45. Within 30 days of the effective date of this Order, Respondent shall pay \$10,000.00 to the Department for the administrative penalties imposed above. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include thereon the notations "OGC Case No. 05-2698" and "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to Florida Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

46. In addition to the administrative penalties, within 30 days of the effective date of this Order, Respondent shall pay \$2,000.00 to the Department for costs and expenses. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include thereon the notations "OGC Case No. 05-2698" and "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to Florida Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

NOTICE OF RIGHTS

Respondent's rights to negotiate, litigate or transfer this action are set forth below.

Right to Negotiate

47. This matter may be resolved if the Department and Respondent enter into a Consent Order, in accordance with Section 120.57(4), Fla. Stat., upon such terms and conditions as may be mutually agreeable.

Right to Request a Hearing

48. Respondent has the right to a formal administrative hearing pursuant to Sections 120.569, 120.57(1) and 403.121(2), Fla. Stat., if Respondent disputes issues of material fact raised by this First Amended Notice of Violation and Orders for Corrective Action ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel, to present evidence and argument on all issues involved; and to conduct cross-examination and submit rebuttal evidence.

49. Respondent has the right to an informal administrative proceeding pursuant to Sections 120.569 and 120.57(2), Fla. Stat., if Respondent does not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

50. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading entitled "Petition for Administrative Proceeding" within 20 days of receipt of this Notice. The petition must be in the form required by Fla. Admin. Code Rule 62-110.106 and by Fla. Admin. Code Rules 28-106.201 or 28-106.301. A petition is filed

when it is received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000.

Right to Mediation

51. If Respondent timely files a petition challenging the Notice, the Respondent has the right to mediate the issues raised in the Notice. If requested, a mediator will be appointed to assist the Department and Respondent to reach a resolution of some or all of the issues. The mediator is chosen from a list of mediators provided by the Florida Conflict Resolution Consortium ("FCRC"). The FCRC will provide up to 8 hours of free mediation services to the Respondent. A mediator cannot require the parties to settle the case. If mediation is unsuccessful, both parties retain their full rights to litigate the issues before an administrative law judge. The Respondent must select the mediator and notify the FCRC within 15 days of receipt of the list of mediators. The mediation process does not interrupt the time frames of the administrative proceedings and the mediation must be completed at least 15 days before the date of the final hearing.

52. The written request to appoint a mediator must be made within 10 days after receipt of the Initial Order from the administrative law judge appointed to hear the case. The request must be received by the Florida Conflict Resolution Consortium, Shaw Building, Suite 132, 2031 E. Paul Dirac Drive, Tallahassee, FL 32310, 850-644-6320, flacrc@fsu.edu. Once the request is timely received, the FCRC will provide the parties with a list of mediators and the necessary information.

Right to Opt Out of the Administrative Proceeding

53. If Respondent does not wish to contest the issues before an administrative law judge, Respondent may file a notice with the Department opting out of the administrative

process. Respondent must file its written opt out notice within 20 days after service of the Notice. The written notice to opt out is filed when it is received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000.

54. Once the Respondent opts out of the administrative process, the Department may sue the Respondent for injunctive relief, damages, costs and expenses and civil penalties. If the Respondent opts out of the administrative process, the Department may ask the judge to assess civil penalties in excess of the amounts in this Notice up to \$5,000.00 per day per violation. The election to opt out of the administrative process is permanent and once the election is made the administrative process cannot be restarted.

Waivers

55. Respondent will waive the right to a formal hearing or an informal proceeding if either:

- a. a petition for a formal hearing or informal proceeding is not filed with the Department within 20 days of receipt of this Notice, or
- b. a notice opting out of the administrative proceeding is not filed with the Department within 20 days of receipt of this Notice.

These time limits may be varied only by written consent of the Department.

General Provisions

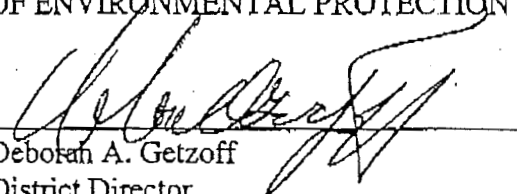
56. The findings of fact and conclusions of law of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to timely file a petition for a formal hearing or informal proceeding, pursuant to Section 403.121, Fla. Stat. A Final Order will constitute a full and final adjudication of the matters alleged in this Notice.

57. If Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Sections 120.69, 403.121 and 403.131, 403.860, Fla. Stat. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$5,000.00 per day for each day that Respondent has failed to comply with the Final Order.

58. Copies of Department rules referenced in this Notice may be examined at any Department Office or may be obtained by written request to the District Office.

DATED this 26th day of November, 2006

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Deborah A. Getzoff
District Director
Southwest District

Copies furnished to:
Lea Crandall, Agency Clerk, Mail Station 35

SENDER: COMPLETE THIS SECTION

■ Complete items 1, 2, and 3. Also complete

Colonial Manor Utility Company - NOV
PWS-ID No. 651-0355
OGC File No. 05-2698

1. Article Addressed to:

Colonial Manor Utility Company
c/o Victoria Penick, Registered Agent
5525 Berkley Road
New Port Richey, FL 34652

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

11/29/00

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

2. Article Number

(Transfer from service label)

7006 0810 0005 2598 2722

PS Form 3811, February 2004

Domestic Return Receipt

102585-02-M-1540

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF GENERAL COUNSEL**

3900 Commonwealth Boulevard, M.S. 35
Marjory Stoneman Douglas Building
Tallahassee, Florida 32399-3000

FACSIMILE TRANSMITTAL

To: Gary Deremer
Fax: (727) 848-7701
From: Ronni Moore
Assistant General Counsel
Phone: (850) 245-2193
Fax: (850) 245-2301
Sender: same

*Jay -
Pls. review and
forward back
to me
THX
mo.
1/4/07*

Pages: 4 Pages, including Cover **Date:** January 4, 2007

Re: First Request for Admissions; DEP v. Colonial Manor Utility Co.;
DOAH Case No: 06-4121EF; OGC Case No.: 05-2698

Comments:

Original WILL follow VIA United States Postal Service

Federal Express

Original will NOT follow

The information contained in this facsimile message is attorney privileged and confidential, intended only for the use of individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify sender by telephone and return the original to us at the above address via United States Postal Service.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Petitioner,
vs.

Case No. 06-4121EF
05-2698

COLONIAL MANOR UTILITY CO.,

Respondent.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION'S FIRST REQUEST FOR
ADMISSIONS TO COLONIAL MANOR UTILITY CO.**

Petitioner, Department of Environmental Protection ("Department"), by and through its undersigned counsel, serves this Request for Admissions on Respondent, Colonial Manor Utility Co. ("Respondent"), pursuant to Rule 1.370, Florida Rules of Civil Procedure, and requests Respondent to respond to the following Request for Admissions within thirty days (30) from the date of service hereof. Response must be made by such date to Petitioner's attorney, Ronda L. Moore, Office of General Counsel, Department of Environmental Protection, 3900 Commonwealth Blvd., MS 35, Tallahassee, Florida 32399-3000.

PRELIMINARY STATEMENT

A request for admissions is not objectionable because it relates to statements or opinions of fact or of the application of law to fact, including the genuineness of any document described in the request. Each requested matter is admitted unless the party to whom the request is directed serves its written answer or objection addressed to the matter within thirty (30) days of service of the request.

If objection is made, the reason shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny

the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true or qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made a reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

DEFINITIONS

The following definitions apply to this Request for Admissions:

- a. "community water system" means PWS No. 651-0355, located at Colonial Manor Subdivision, Mog Road, Pasco County, Florida.
- b. "Well No. 5" means the fifth well of the community water system.

PLEASE ADMIT:

1. Well No. 5 has not supplied drinking water to its public since at least 1994.
2. Respondent has not supplied drinking water to its public from Well No. 5 since becoming owner of the community water system in January 2004.
3. Construction to Well No. 5 has occurred during Respondent's ownership of the community water system.
4. Alteration to Well No. 5 has occurred during Respondent's ownership of the community water system.
5. Well No. 5 was physically disconnected from the community water system on or before October 12, 2005.
6. Well No. 5 was physically connected to the community water system on or before December 12, 2005.

7. Respondent has not submitted monthly sampling results for Well No. 5 to the Department since becoming owner of the community water system.

8. Respondent has not submitted annual sampling results for Well No. 5 to the Department since becoming owner of the community water system.

9. Respondent has not submitted triennial sampling results for Well No. 5 to the Department since becoming owner of the community water system.

DATED this 4th day of January, 2007.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

/s/ Ronda L. Moore

RONDA L. MOORE
Assistant General Counsel
3900 Commonwealth Blvd., MS 35
Tallahassee, FL 32399-3000
Ph: (850) 245-2193
Fax: (850) 245-2301
Florida Bar No. 0676411

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing, Department of Environmental Protection's First Request for Admissions to Colonial Manor Utility Co., has been furnished by facsimile, (727) 848-7701, on this 4th day of January, 2007, to the following:

Gary Deremer
Colonial Manor Utility Co.
4939 Cross Bayou Blvd.
New Port Richey, Florida 34652

/s/ Ronda L. Moore

RONDA L. MOORE
Assistant General Counsel

Colonial Manor Utility Company

Gary Deremer, President
PO Box 398
New Port Richey, Florida 34652
Tel: 727-848-8292 Fx: 727-848-7701

February 2, 2007

Ms. Ronda Moore, Esq.
Assistant General Counsel
Florida Department of Environmental Protection
3900 Commonwealth Blvd. M.S. 35
Tallahassee, Florida 32399-3000

Re: Colonial Manor Utility Company
DOA Case#06-4121 EF
06C Case# 05-2698

Dear Ms. Moore:

This letter is for the purpose of memorializing our most recent telephone conversation on the matter of FDEP fees and penalties in the above referenced case.

Colonial Manor Utilities appreciates the department efforts to reach a mutually agreeable consent order for the purpose of resolving nitrate exceedences in the Colonial Manor water system. Should the parties be in agreement and a consent order entered, Colonial Manor agrees to pay the department \$2,000 as an administrative fee. Further, Colonial Manor Utilities maintains its position that a single MCL exceedence does not constitute a violation; however, in order to facilitate the negotiation of a consent order with the FDEP, we offer the following alternatives, in order of preference as a means for resolving FDEP penalties sought in this matter:

1.) Reduction of penalty amount from \$10,000 to \$2,000. Colonial Manor Utilities is a small utility company serving an average to below average income population. Water rates are set by the FPSC and are reasonable. For 2005 the net income for this utility was (-) \$30,800 and the 2006 net income for this utility was (-) \$ 41,000. Penalties are not recoverable in rates; therefore, the \$10,000 fine is burdensome to the utility. The cost of the proposed nitrate treatment system will be included in the ongoing PSC rate case and the anticipated rate increase will be significant for the rate payers although less costly than purchasing water from the county. The reduction of the penalty to \$2,000 is a reasonable request of FDEP in order to conclude the consent negotiations and reduce further financial hardship of the utility.

2.) Reduction of the penalty to a monetary payment of \$2,000 and a in-kind capital project consisting of the replacement of aged galvanized pipe in the distribution system. This replacement program would cost well over \$12,000. The current distribution system consists of cast iron, galvanized and asbestos cement pipe materials. As is typical of a fifty year old system, the galvanized pipe portion has tuberculated such that flow capacity is reduced at periods of peak demands. Additionally, these portions of the system experience a higher percentage of leaks and failures, resulting in a waste of water. FDEP's cooperation in allowing in-kind funds to be used for this purpose would be beneficial to the customers of Colonial Manor Utilities by increasing the reliability of the system and providing rate relief due to decreased system maintenance costs. Your concurrence with this in-kind capital project is appreciated.

3.) Reduction of the penalty to a monetary payment of \$2,000 and perform a study project. The project would be performed by Dr. Jay Thabaraj, consultant to U.S. Water Services Corporation, and would be a basic environmental needs assessment addressing the feasibility of centralized sewers as a means for reducing the impact of septic tank effluent on ground water in the geographic areas of the northern portion of Holiday, Florida and the general area of New Port Richey, Florida.

This project would be a desktop engineering study which addresses the residential and light commercial areas which are not provided water services by a government owned water facility(s) and are not served by a centralized sewer system. The study would include:

- a. The history of wastewater disposal in the area, including growth trends.
- b. Septic tank design standards, design loading rates; the significance of population density and actual loading rates as it relates to the nitrate problem.
- c. An inventory of the number of houses currently not served by central sewer system.
- d. The identifications of current local/state regulations and policies, agencies involved, and incentives and impediments to sewerage the area.
- e. The fiscal challenge including planning level cost estimates, rate impacts, and funding alternatives.
- f. And identify a plan of action.

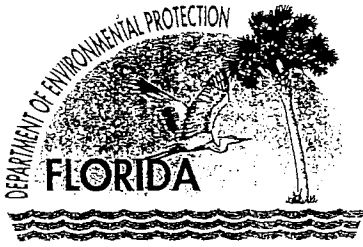
As a needs assessment, this document could serve as a resource for authorities in capital planning and as a blue print for remediating groundwater contamination and preventing future public health emergencies.

We trust this letter will conceptually complete the outstanding issues of a consent order and we look forward to opening detailed discussion as necessary, towards the adoption of final language. Thank you for your cooperation.

Sincerely,

Gary Deremer
President

Already discussed with FASCO (CO) which responded in writing to our request for relief from the service territory for New Port Richey



Florida Department of Environmental Protection

Southwest District Office
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926

Charlie Crist
Governor

Jeff Labropoulos
H. Governor

Richard W. Scott
Governor

July 30, 2007

Mr. Gary Deremer
Colonial Manor Utility Company
4939 Cross Bayou Boulevard
New Port Richey, FL 34652

Re: Executed Consent Order
Colonial Manor
PWS-ID No. 651-0355
OGC File No. 05-2698-51-PW
Pasco County

Dear Mr. Deremer:

I am enclosing a copy of the Consent Order for Colonial Manor, OGC File No. 05-2698-51-PW, executed by the Interim Director. Please note that the effective date of the Consent Order is July 30, 2007.

If you have any questions or concerns, please call me at (813) 632-7600, extension 306.

Thank you for your cooperation.

Sincerely,

Gwen Shofner, P.E.
Program Manager
Drinking Water Section

GS/dm

Enclosure

cc: Ronni Moore

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

Complainant,

OGC FILE NO. 05-2698

vs.

COLONIAL MANOR UTILITY CO.,

Respondent.

CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Protection ("Department") and Colonial Manor Utility Co. ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent neither admits nor denies the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to administer and enforce the provisions of the Florida Safe Drinking Water Act, Sections 403.850, et seq., Florida Statutes, and the rules promulgated thereunder, Title 62, Florida Administrative Code. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a person within the meaning of Section 403.852(5), Florida Statutes.

3. Respondent is the owner and operator of Colonial Manor Utilities, a community public water system serving approximately 1,800 persons, PWS No. 651-0355, located at Colonial Manor Subdivision, Moog Road, Pasco County, Florida, Latitude 28 degrees 12

minutes 22 inches North, Longitude 82 degrees 43 minutes 56 inches West ("System"). The System consists of four approved drinking water wells ("Wells No. 1, 2, 3, and 4"), each equipped with dedicated chlorinator and hydropneumatic storage tank, and provides combined capacity of approximately 1.2 million gallons per day.

4. On November 8, 2004 Respondent sampled Well No. 1 for nitrate. The analysis result was 10.6 milligrams per liter ("mg/l"). Respondent violated Rule 62-550.310 (1) (a), Florida Administrative Code, which requires that all public water systems not exceed the primary inorganic maximum contaminant level of 10 mg/l.

5. On August 29, 2005 Respondent sampled Well No. 1 for nitrate. The analysis result was 10.8 mg/l. On September 1, 2005 Respondent took a nitrate confirmation sample from Well No. 1. The analysis result was 10.3 mg/l. Respondent violated Rule 62-550.310 (1) (a), Florida Administrative Code, which requires that all public water systems not exceed the primary inorganic maximum contaminant level of 10 mg/l.

6. On August 29, 2005 Respondent sampled Well No. 4 for nitrate. The analysis result was 10.4 mg/l. On September 1, 2005 Respondent took a nitrate confirmation sample from Well No. 4. The analysis result was 10.6 mg/l. Respondent violated Rule 62-550.310 (1) (a), Florida Administrative Code, which requires that all public water systems not exceed the primary inorganic maximum contaminant level of 10 mg/l.

7. Following the sampling events discussed in paragraphs 4, 5, and 6 above, Respondent took Wells No. 1 and 4 out of service and issued public notification of the nitrate violations to the System's customers. The System commenced supplying customers using Wells No. 2 and 3 only. A review of historic monitoring results indicate that, since August 2003,

nitrate concentrations exceeding 9 mg/l but less than 10mg/l have been reported five times for Well No. 2 and four times for Well No. 3.

8. On October 11, 2006 Respondent sampled Well No. 2 for nitrate. The analysis result was 12.0 mg/l. On October 30, 2006 Respondent took a nitrate confirmation sample from Well No. 2. The analysis result was 9.94 mg/l. Respondent violated Rule 62-550.310 (1) (a), Florida Administrative Code, which requires that all public water systems not exceed the primary inorganic maximum contaminant level of 10 mg/l.

9. Following the sampling events discussed in paragraph 8 above, the Respondent issued public notification to its customers that the System exceeded the maximum contaminant level for nitrate, but did not take Well No. 2 out of service. The System continues to supply customers using Wells No. 2 and 3 only.

10. During an inspection of the System on October 12, 2005 the Department determined that a fifth existing well ("Well No. 5") was not physically connected to the System's water distribution network.

11. No monthly, annual, or triennial sampling results from Well No. 5 have been submitted to the Department since Respondent purchased the System in January 2004.

12. A Department inspection on December 15, 2005 showed that Well No. 5 had been physically connected to the System's water distribution network. The Department had not issued a permit authorizing this construction activity. Respondent violated Rule 62-555.520, Florida Administrative Code, which requires a construction permit prior to construction or alteration of any public water system component.

13. On January 5, 2007 Respondent submitted to the Department an application for a permit to construct a centralized ion exchange treatment system to reduce nitrate levels in the

finished water to below the 10 mg/l maximum contaminant level. The application is incomplete. The Department sent a Request for Additional Information letter to the Respondent on January 24, 2007 and received the Respondent's response on March 9, 2007.

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

ORDERED:

14. Respondent shall comply with the following actions within the stated time periods.

(a) Upon the effective date of this Consent Order, Respondent shall monitor each in-service well for nitrate on a monthly basis and shall report each month's nitrate monitoring results to the Department by no later than the 10th day of the following month, until completion of construction of a centralized nitrate treatment system or connection to Pasco County Utilities, whichever occurs first. In the event that the initial sample in any in-service well shows a nitrate level greater than 10 mg/l, Respondent shall notify the Department within 24 hours of receiving notice of the initial sample above 10 mg/l and shall coordinate with the Department for the Department to split sample the confirmation sample, if the Department chooses to collect a split sample. If the average of the Respondent's and the Department's results of the confirmation sample show that when averaged with the initial sample an exceedance of 10 mg/l has occurred, Respondent shall remove the well from service within six hours of receiving notification of the exceedance and shall provide written notification to the Department, within 24 hours of receiving notification of the exceedance, that the well has been removed from service.

(b) If the Department samples any in-service well for nitrate and the initial sample for the respective well shows a nitrate level greater than 10 mg/l, the Department will notify the Respondent within 24 hours of receiving notice of the initial sample above 10 mg/l and will coordinate with the Respondent to split sample the confirmation sample. If the average of the Department's and the Respondent's results of the confirmation sample show that when averaged with the initial sample an exceedance of 10 mg/l has occurred, Respondent shall remove the well from service within six hours of receiving notification of the exceedance and shall provide written notification to the Department, within 24 hours of receiving notification of the exceedance, that the well has been removed from service.

(c) Following the occurrence of any exceedance as described in paragraphs 14(a) or (b) above, Respondent may return the well to service only after Respondent demonstrates to the Department that the nitrate level is 10 mg/l or below in the respective well for two consecutive months. Respondent shall submit a written statement to the Department, with the accompanying analytical reports, demonstrating that the nitrate level has been 10 mg/l or below in the respective well for two consecutive months. Within ten business days of receipt of Respondent's statement and accompanying analytical reports, the Department will review Respondent's statement and reports to verify if the Respondent can return the respective well to service and provide Respondent written notification regarding returning the respective well to service.

(d) Within 90 days of the effective date of this Consent Order, Respondent shall have completed its permit application to construct a centralized ion exchange treatment system to reduce the nitrate levels in the System's finished water to below 10 mg/l.

(e) After the Department has issued Respondent a permit to construct a centralized nitrate treatment system, Respondent may return Well No. 1 and/or Well No. 4 to service after demonstrating to the Department that the nitrate level in the respective well(s) is below 10 mg/l for two consecutive months. Respondent shall submit a written statement to the Department, with the accompanying analytical reports, demonstrating that the nitrate level has been 10 mg/l or below in the respective well for two consecutive months. Within ten business days of receipt of Respondent's statement and accompanying analytical reports, the Department will review Respondent's statement and reports to verify if the Respondent can return the respective well to service and provide Respondent written notification regarding returning the respective well to service.

(f) After the Department has issued Respondent a permit to construct a centralized nitrate treatment system, Respondent may place Well No. 5 in service only after the following actions have occurred:

- (i) Respondent has performed bacteriological testing of Well No. 5 and submitted the results to the Department for review;
- (ii) The bacteriological testing results of Well No. 5 submitted to the Department are determined to be acceptable by the Department; and
- (iii) The Department has provided written approval for returning Well No. 5 to service.

Within 30 days of receipt of Respondent's bacteriological results for Well No. 5, the Department will review the bacteriological testing results and provide the Respondent written notification either approving or denying Well No. 5 to return to service.

(g) In the event that Respondent is at any time unable to satisfy customer demand using currently available wells, Respondent shall immediately open the valve interconnecting the System with Pasco County Utilities. Ability to satisfy customer demand will be demonstrated by maintenance of at least 20 pounds per square inch line pressure throughout the distribution system. Since the System uses chlorine for its disinfectant while Pasco County Utilities uses chloramines, Respondent will immediately notify customers of the disinfectant change upon opening the interconnect valve. Respondent will notify the Department within 24 hours after opening the Pasco County Utilities interconnect valve. This provision to notify the Department shall terminate should Respondent and Pasco County Utilities utilize compatible disinfectant measures.

(h) Within 12 months of the effective date of this Consent Order, Respondent shall have secured the funding necessary to construct the permitted centralized nitrate treatment system. Upon Respondent having received notification that it is unable to secure the necessary funding to construct the permitted centralized nitrate treatment system, Respondent shall immediately remove Well No. 5 from service, inform the Department of Well No. 5's removal, and not return Well No. 5 to service until otherwise approved by the Department. Within 60 days of Respondent having received notification that it is unable to secure necessary funding to construct the permitted centralized nitrate treatment system, Respondent shall submit a plan to the Department addressing how Respondent intends to provide the System's customers with the capacity and quality of water meeting all Department standards, including but not limited to, purchasing water from Pasco County Utilities in part or in whole, and alternative plans for the use of Well No. 5 pursuant to Rule 62-602.555.312, Florida Administrative Code.

(i) Should Respondent secure the funding necessary to construct the permitted centralized nitrate system, Respondent shall within 30 months of issuance of the Department permit to construct the centralized nitrate treatment system have completed the work authorized in the Department's permit to reduce nitrate concentrations in the System's finished water to below 10 mg/l.

(j) After receiving Department clearance to place the centralized nitrate treatment system into service, Respondent shall monitor the System for nitrate on a monthly basis for one year after placing the treatment system into service. The monitoring will include sampling the blended raw water prior to treatment and the finished water at the point of entry to the distribution system. After one year of monthly monitoring, the sampling frequency shall be reduced to quarterly sampling of the finished water at the point of entry and sampling of the blended raw water shall terminate. The Department may approve a reduction in the monitoring frequency to annual monitoring of the finished water following a year in which the annual average nitrate level in the finished water is below half of the maximum contaminant level.

(k) All water quality samples required under this Consent Order shall be collected in accordance with Department Standard Operating Procedures (SOP), pursuant to the Quality Assurance, Part II Field Procedures, given in Chapter 62-160, Florida Administrative Code.

(l) The modifications required to construct the centralized nitrate treatment system will change the water treatment classification of the plant from Category V, Class D, to Category III, Class C. After receiving Department clearance to place the centralized nitrate treatment system into service, Respondent is required to comply with the operator staffing requirements applicable to a Category III, Class C, treatment plant with capacity in the 1.0 MGD

to 2.0 MGD range given in Rule 62-699.310(4), Florida Administrative Code. However, the Department's review of Respondent's Monthly Operating Reports submitted during the last 12 months indicate the capacity range corresponding to existing operating conditions is 0.25 MGD to 0.5 MGD. The validity of this range is further confirmed by Respondent's January 5, 2007 submittal of a permit application for the centrally located nitrate removal system to treat raw water from Well Nos. 1, 2, 3, 4, and 5 with combined capacity of 0.288 MGD. Therefore, the Department approves a decrease of the staffing requirement to that required for a Category III, Class C, facility with capacity in the 0.25 MGD to 0.5 MGD range pursuant to Rule 62-699.311(8), Florida Administrative Code.

15. Within 30 days of the effective date of this Consent Order, Respondent agrees to pay the Department \$8,500.00 to settle the violations addressed in this Consent Order. This amount includes \$2,000.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. The civil penalty in this case includes 3 violations of \$2,000.00 or more. 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 notations "OGC File No. 05-2698" and "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to the Department of Environmental Protection, Potable Water Section, 13051 North Telecom Parkway, Temple Terrace, Florida, 33637.

16. Respondent agrees to pay the Department stipulated penalties in the amount of \$1,000.00 per day for each and every day Respondent fails to comply with any of the requirements of paragraphs 14 (a), (b), (c), or (h) of this Consent Order and \$500.00 per day for each and every day Respondent fails to comply with any of the requirements of paragraphs 14

(d), (e), (f), (g), (i), (j), or (k) 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 notations "OGC File No. 05-2698" and "Ecosystem Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, 13051 North Telecom Parkway, Temple Terrace, FL 33637. 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. 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.

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

18. Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

- (a) The name, address, and telephone number of each petitioner; the Department's Consent Order identification number and the county in which the subject matter or activity is located;
- (b) A statement of how and when each petitioner received notice of the Consent Order;
- (c) A statement of how each petitioner's substantial interests are affected by the Consent Order;
- (d) A statement of the material facts disputed by petitioner, if any;
- (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order;
- (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; and
- (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 Sections 120.569 and 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 28-106.205, Florida Administrative Code.

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

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- (a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
- (b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- (c) The agreed allocation of the costs and fees associated with the mediation;

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

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

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

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

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

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within fourteen days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for

disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

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

20. 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 403.859, Florida Statutes.

21. 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 \$5,000.00 per day per violation, and criminal penalties.

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

23. All submittals and payments required by this Consent Order to be submitted to the Department shall be sent to:

Florida Department of Environmental Protection
Attn: Gwen Shofner, P.E.
Drinking Water Program Manager
13051 North Telecom Parkway
Temple Terrace, Florida 33637

24. 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.

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

26. Respondent acknowledges and waives its right to an administrative hearing pursuant to Sections 120.569 and 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, and waives that right upon signing this Consent Order.

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


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

29. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities, which may arise under Florida law, nor is it a settlement of any violation, which may be prosecuted criminally or civilly under federal law.

30. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, 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: 7/19/07



Gary Deremer, as President of Colonial Manor Utility Co.

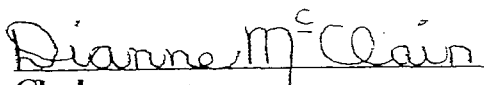
DONE AND ORDERED this 27th day of July, 2007
in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Deborah A. Getzoff
District Director

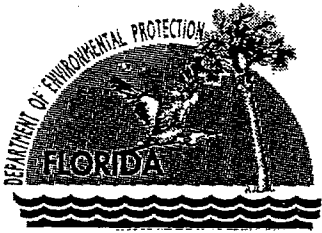
Filed, on this date, pursuant to Section 120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

July 30, 2007
Date

Copies furnished to:
Lea Crandall, Agency Clerk, Mail Station 35



Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

*Copy: Dave Sr.
Gary
Ken
Mo.*

Colleen M. Castille
Secretary

Ronda L. Moore
Assistant General Counsel
3900 Commonwealth Blvd., MS 35
Tallahassee, Florida 32399-3000
Ph. 850-245-2193
Fax 850-245-2301
ronni.moore@dep.state.fl.us

December 20, 2006

The Honorable Bram D. E. Canter
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Re: State of Florida Department of Environmental Protection vs. Colonial Manor Utility, Co.;
Case No. 06-4121EF

Dear Judge Canter:

Enclosed please find the Department's First Amended Notice of Violation, Orders for Corrective Action and Administrative Penalty Assessment ("Amended NOV") in Case No. 06-4121EF, which Respondent, Colonial Manor Utility Co., received on November 29, 2006.

Sincerely,

Ronda L. Moore
Assistant General Counsel

Encl.

cc: Colonial Manor Utility Co. ✓

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

Complainant,

vs.

OGC FILE No. 05-2698

COLONIAL MANOR UTILITY CO.,

Respondent,

FIRST AMENDED NOTICE OF VIOLATION
ORDERS FOR CORRECTIVE ACTION AND ADMINISTRATIVE PENALTY
ASSESSMENT

TO: Colonial Manor Utility Co.
c/o Victoria Penick, Registered Agent
5525 Berkley Rd.
New Port Richey, FL 34652

Certified Mail Number 7006 0810 0005 2598 2722

Pursuant to the authority of Section 403.121(2), Florida Statutes ("Fla. Stat.") the State of Florida Department of Environmental Protection ("Department") gives notice to Colonial Manor Utility Co. ("Respondent") of the following findings of fact and conclusions of law with respect to violations of Chapter 403, Fla. Stat.

FINDINGS OF FACTS
PARAGRAPHS APPLICABLE TO ALL COUNTS

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, Fla. Stat., and the rules promulgated thereunder in Florida Administrative Code ("Fla. Admin. Code") Title 62.

2. Respondent is the owner of a community water system serving approximately 2,500 persons, PWS No. 651-0355, located at Colonial Manor Subdivision, Mog Road, Pasco County, Florida, Latitude 28 degrees 12 minutes 22 inches North, Longitude 82 degrees 43 minutes 56 inches West ("System").

3. The System consists of four approved drinking water wells ("Wells No. 1, 2, 3, and 4"), each equipped with dedicated chlorinator and hydropneumatic storage tank, and with an approximate combined capacity of 1.2 million gallons per day.

4. The System serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

5. Rule 62-550.310, Fla. Admin. Code, provides that all public water systems shall not exceed the primary inorganic nitrate maximum contaminant level of 10 milligrams per liter ("mg/l").

6. Wells No. 1 and 4 exceeded the maximum contaminant level for nitrate. Respondent issued public notification to its customers that the System exceeded the maximum contaminant level for nitrate and took Wells No. 1 and 4 out of service.

7. Well No. 2 exceeded the maximum contaminant level for nitrate. Respondent issued public notification to its customers that the System exceeded the maximum contaminant level for nitrate, but did not take Well No. 2 out of service.

8. The System is currently supplying drinking water using Wells No. 2 and 3 only. A review of historic monitoring results of Well No. 3 indicates that, since August 2003, nitrate concentrations exceeding 9 mg/l, but less than 10mg/l, have been reported five times for Well No. 2 and five times for Well No. 3.

9. During a Department inspection of the System on October 12, 2005, the

Department observed that a fifth well ("Well No. 5") was not physically connected to the System's water distribution network.

10. A Department inspection on December 15, 2005 showed that Well No. 5 had been physically connected to the System's water distribution network.

11. The Department has not issued a permit authorizing construction to Well No. 5 and has not authorized the use of Well No. 5.

12. The Department has not received monthly, annual, or triennial sampling results from Well No. 5 since 1992.

COUNT I - WELL NO. 2 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

13. Respondent sampled Well No. 2 on October 11, 2006 for nitrate. The analysis result was 12.0 mg/l.

14. Respondent took a nitrate confirmation sample on October 30, 2006. The analysis result was 9.94 mg/l.

COUNT II - WELL NO. 1 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

15. Respondent sampled Well No. 1 on August 29, 2005 for nitrate. The analysis result was 10.8 mg/l.

16. Respondent took a nitrate confirmation sample on September 1, 2005. The analysis result was 10.3 mg/l.

COUNT III - WELL NO. 4 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

17. Respondent sampled Well No. 4 on August 29, 2005 for nitrate. The analysis result was 10.4 mg/l.

18. Respondent took a nitrate confirmation sample on September 1, 2005. The

analysis result was 10.6 mg/l.

COUNT IV - WELL NO. 1 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

19. Respondent sampled Well No. 1 on November 8, 2004 for nitrate. The analysis result was 10.6 mg/l.

COUNT V - ALTERATION OR CONSTRUCTION TO WELL NO. 5
WITHOUT A PERMIT

20. Alteration or construction on connecting piping from unapproved Well No. 5 to the System's distribution system occurred on or before December 12, 2005 without a Department permit or clearance letter.

COUNT VI - COSTS AND EXPENSES

21. The Department has incurred expenses to date while investigating this matter in the amount of not less than \$2,000.00.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapter 403, Fla. Stat. and Fla. Admin. Code Title 62. Based on the foregoing facts the Department has made the following conclusions of law:

22. Respondent is a "person" as defined in Section 403.852(5), Fla. Stat.

23. Respondent is the owner of the water system and is a "supplier of water" as defined in Section 403.852(8), Fla. Stat.

24. Respondent's water system is a "public water system" and is a "community water system" as defined in Sections 403.852(2) and (3), Fla. Stat., respectively. The water system draws water from the Floridan Aquifer and thus is also a "ground water system," as that term is used in Fla. Admin. Code Chapters 62-550 and 62-555.

25. The Department is imposing an administrative penalty of less than or equal to \$10,000.00 in this Notice of Violation as calculated in accordance with Section 403.121, Fla. Stat.

26. The facts in Count I constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. Rule 62-550.512(3)(a), Fla. Admin. Code, provides that compliance shall be determined based on the average of the initial and confirmation samples. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

27. The violation in Count I requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding a maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

28. The facts in Count II constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. Rule 62-550.512(3)(a), Fla. Admin. Code, provides that compliance shall be determined based on the average of the initial and confirmation samples. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

29. The violation in Count II requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that

was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

30. The facts in Count III constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. Rule 62-550.512(3)(a), Fla. Admin. Code, provides that compliance shall be determined based on the average of the initial and confirmation samples. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

31. The violation in Count III requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

32. The facts in Count IV constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

33. The violation in Count IV requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

34. The facts in Count V constitute a violation of Rule 62-555.520, Fla. Admin. Code,

which requires a construction permit from the Department prior to construction or alteration of any public water system component. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

35. The violation in Count V requires an assessment of an administrative penalty of \$3,000.00 under Section 403.121(4)(c), Fla. Stat.

36. The Department cannot impose penalties in excess of \$10,000.00 in a Notice of Violation. The total administrative penalty is therefore capped at \$10,000.00.

37. The costs and expenses related in Count VI are reasonable costs and expenses incurred by the State while investigating this matter, which are recoverable pursuant to Section 403.141(1) Fla. Stat.

ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged in this Notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent either files a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121(2)(c), Fla. Stat., or files written notice with the Department opting out of this administrative process, pursuant to 403.121(2)(c), Fla. Stat. (See Notice of Rights). If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's Order pursuant to Sections 120.69, 403.121 and 403.131, Fla. Stat.

Pursuant to the authority of Sections 403.061(8) and 403.121, Fla. Stat., the Department proposes to adopt in its Final Order in this case the following specific corrective actions that will

redress the alleged violations:

38. Respondent shall forthwith comply with all Department rules related to community water systems. Respondent shall correct and redress all violations in the time periods required below and shall comply with all applicable rules in Fla. Admin. Code Chapters 62- 550 and 62-555. All documents, reports, and test results that are required to be submitted to the Department shall be submitted to: Gwen Shofner, P.E., Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

39. Within 60 days of the effective date of this Order, Respondent shall submit a permit application and plans signed and sealed by a professional engineer to reduce the levels of nitrate in Wells No. 1, 2, and 4 to below the maximum contaminant level.

40. Within 90 days from issuance of a Department Construction permit, Respondent shall have completed the permitted work authorized in the Department permit to reduce the level of nitrate in the System to below the maximum contaminant level.

41. Respondent shall not distribute any water from Wells No. 1 and 4 to the water distribution network of the System until it receives the following:

- (a) a construction permit pursuant to Rule 62-555.520, Fla. Admin. Code, and
- (b) a clearance letter pursuant to Rule 62-555.345, Fla. Admin. Code, to place Wells No. 1, and 4 into service.

42. In the event nitrate maximum contaminant levels exceed 10 mg/l in Well No. 3, Well No. 3 shall be removed from service and the existing interconnect to Pasco County Utilities shall be activated to supply water to the System until the requirements in paragraphs 39 and 40 above are completed to reduce the levels of nitrate to below the maximum contaminant level.

43. Within 180 days of the effective date of this Order, Respondent's System shall be

in compliance with all Department nitrate standards and the requirements of this Order or the System shall be connected to Pasco County's Public Water System, with all the System's wells physically disconnected and removed from service.

44. Respondent shall not distribute any water from Well No. 5 to the System until it receives the following:

- (a) a construction permit pursuant to Rule 62-555.520, Fla. Admin. Code, and
- (b) a clearance letter, pursuant to Rule 62-555.345, Fla. Admin. Code, to place Well No. 5 into service.

45. Within 30 days of the effective date of this Order, Respondent shall pay \$10,000.00 to the Department for the administrative penalties imposed above. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include thereon the notations "OGC Case No. 05-2698" and "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to Florida Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

46. In addition to the administrative penalties, within 30 days of the effective date of this Order, Respondent shall pay \$2,000.00 to the Department for costs and expenses. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include thereon the notations "OGC Case No. 05-2698" and "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to Florida Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

NOTICE OF RIGHTS

Respondent's rights to negotiate, litigate or transfer this action are set forth below.

Right to Negotiate

47. This matter may be resolved if the Department and Respondent enter into a Consent Order, in accordance with Section 120.57(4), Fla. Stat., upon such terms and conditions as may be mutually agreeable.

Right to Request a Hearing

48. Respondent has the right to a formal administrative hearing pursuant to Sections 120.569, 120.57(1) and 403.121(2), Fla. Stat., if Respondent disputes issues of material fact raised by this First Amended Notice of Violation and Orders for Corrective Action ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel, to present evidence and argument on all issues involved; and to conduct cross-examination and submit rebuttal evidence.

49. Respondent has the right to an informal administrative proceeding pursuant to Sections 120.569 and 120.57(2), Fla. Stat., if Respondent does not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

50. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading entitled "Petition for Administrative Proceeding" within 20 days of receipt of this Notice. The petition must be in the form required by Fla. Admin. Code Rule 62-110.106 and by Fla. Admin. Code Rules 28-106.201 or 28-106.301. A petition is filed

when it is received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000.

Right to Mediation

51. If Respondent timely files a petition challenging the Notice, the Respondent has the right to mediate the issues raised in the Notice. If requested, a mediator will be appointed to assist the Department and Respondent to reach a resolution of some or all of the issues. The mediator is chosen from a list of mediators provided by the Florida Conflict Resolution Consortium ("FCRC"). The FCRC will provide up to 8 hours of free mediation services to the Respondent. A mediator cannot require the parties to settle the case. If mediation is unsuccessful, both parties retain their full rights to litigate the issues before an administrative law judge. The Respondent must select the mediator and notify the FCRC within 15 days of receipt of the list of mediators. The mediation process does not interrupt the time frames of the administrative proceedings and the mediation must be completed at least 15 days before the date of the final hearing.

52. The written request to appoint a mediator must be made within 10 days after receipt of the Initial Order from the administrative law judge appointed to hear the case. The request must be received by the Florida Conflict Resolution Consortium, Shaw Building, Suite 132, 2031 E. Paul Dirac Drive, Tallahassee, FL 32310, 850-644-6320, flacrc@fsu.edu. Once the request is timely received, the FCRC will provide the parties with a list of mediators and the necessary information.

Right to Opt Out of the Administrative Proceeding

53. If Respondent does not wish to contest the issues before an administrative law judge, Respondent may file a notice with the Department opting out of the administrative

process. Respondent must file its written opt out notice within 20 days after service of the Notice. The written notice to opt out is filed when it is received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000.

54. Once the Respondent opts out of the administrative process, the Department may sue the Respondent for injunctive relief, damages, costs and expenses and civil penalties. If the Respondent opts out of the administrative process, the Department may ask the judge to assess civil penalties in excess of the amounts in this Notice up to \$5,000.00 per day per violation. The election to opt out of the administrative process is permanent and once the election is made the administrative process cannot be restarted.

Waivers

55. Respondent will waive the right to a formal hearing or an informal proceeding if either:

- a. a petition for a formal hearing or informal proceeding is not filed with the Department within 20 days of receipt of this Notice, or
- b. a notice opting out of the administrative proceeding is not filed with the Department within 20 days of receipt of this Notice.

These time limits may be varied only by written consent of the Department.

General Provisions

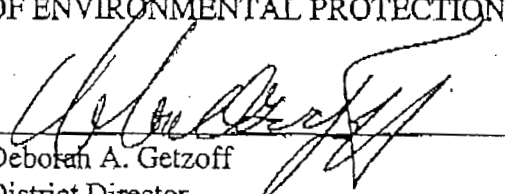
56. The findings of fact and conclusions of law of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to timely file a petition for a formal hearing or informal proceeding, pursuant to Section 403.121, Fla. Stat. A Final Order will constitute a full and final adjudication of the matters alleged in this Notice.

57. If Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Sections 120.69, 403.121 and 403.131, 403.860, Fla. Stat. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$5,000.00 per day for each day that Respondent has failed to comply with the Final Order.

58. Copies of Department rules referenced in this Notice may be examined at any Department Office or may be obtained by written request to the District Office.

DATED this 26th day of November, 2006

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Deborah A. Getzoff
District Director
Southwest District

Copies furnished to:
Lea Crandall, Agency Clerk, Mail Station 35

SENDER: COMPLETE THIS SECTION

■ Complete Items 1, 2, and 3. Also complete

Colonial Manor Utility Company - NOV
PWS-ID No. 651-0355
OGC File No. 05-2698

1. Article Addressed to:

Colonial Manor Utility Company
c/o Victoria Penick, Registered Agent
5525 Berkley Road
New Port Richey, FL 34652

2. Article Number

(transfer from service label)

7006 0810 0005 2598 2722

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery
11/25/00

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

Domestic Return Receipt

702585-02-M-1540

Rec'd 12-4-06

cc: JG
AL
OS
GD
MK
CO

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

Complainant,

vs.

OGC FILE No. 05-2698

COLONIAL MANOR UTILITY CO.,

Respondent,

_____ /

FIRST AMENDED NOTICE OF VIOLATION
ORDERS FOR CORRECTIVE ACTION AND ADMINISTRATIVE PENALTY
ASSESSMENT

TO: Colonial Manor Utility Co.
c/o Victoria Penick, Registered Agent
5525 Berkley Rd.
New Port Richey, FL 34652

Certified Mail Number 7006 0810 0005 2598 2722

Pursuant to the authority of Section 403.121(2), Florida Statutes ("Fla. Stat.") the State of Florida Department of Environmental Protection ("Department") gives notice to Colonial Manor Utility Co. ("Respondent") of the following findings of fact and conclusions of law with respect to violations of Chapter 403, Fla. Stat.

FINDINGS OF FACTS
PARAGRAPHS APPLICABLE TO ALL COUNTS

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, Fla. Stat., and the rules promulgated thereunder in Florida Administrative Code ("Fla. Admin. Code") Title 62.

2. Respondent is the owner of a community water system serving approximately 2,500 persons, PWS No. 651-0355, located at Colonial Manor Subdivision, Mog Road, Pasco County, Florida, Latitude 28 degrees 12 minutes 22 inches North, Longitude 82 degrees 43 minutes 56 inches West ("System").

3. The System consists of four approved drinking water wells ("Wells No. 1, 2, 3, and 4"), each equipped with dedicated chlorinator and hydropneumatic storage tank, and with an approximate combined capacity of 1.2 million gallons per day.

4. The System serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

5. Rule 62-550.310, Fla. Admin. Code, provides that all public water systems shall not exceed the primary inorganic nitrate maximum contaminant level of 10 milligrams per liter ("mg/l").

6. Wells No. 1 and 4 exceeded the maximum contaminant level for nitrate. Respondent issued public notification to its customers that the System exceeded the maximum contaminant level for nitrate and took Wells No. 1 and 4 out of service.

7. Well No. 2 exceeded the maximum contaminant level for nitrate. Respondent issued public notification to its customers that the System exceeded the maximum contaminant level for nitrate, but did not take Well No. 2 out of service.

8. The System is currently supplying drinking water using Wells No. 2 and 3 only. A review of historic monitoring results of Well No. 3 indicates that, since August 2003, nitrate concentrations exceeding 9 mg/l, but less than 10mg/l, have been reported five times for Well No. 2 and five times for Well No. 3.

9. During a Department inspection of the System on October 12, 2005, the

Department observed that a fifth well ("Well No. 5") was not physically connected to the System's water distribution network.

10. A Department inspection on December 15, 2005 showed that Well No. 5 had been physically connected to the System's water distribution network.

11. The Department has not issued a permit authorizing construction to Well No. 5 and has not authorized the use of Well No. 5.

12. The Department has not received monthly, annual, or triennial sampling results from Well No. 5 since 1992.

COUNT I - WELL NO. 2 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

13. Respondent sampled Well No. 2 on October 11, 2006 for nitrate. The analysis result was 12.0 mg/l.

14. Respondent took a nitrate confirmation sample on October 30, 2006. The analysis result was 9.94 mg/l.

COUNT II - WELL NO. 1 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

15. Respondent sampled Well No. 1 on August 29, 2005 for nitrate. The analysis result was 10.8 mg/l.

16. Respondent took a nitrate confirmation sample on September 1, 2005. The analysis result was 10.3 mg/l.

COUNT III - WELL NO. 4 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

17. Respondent sampled Well No. 4 on August 29, 2005 for nitrate. The analysis result was 10.4 mg/l.

18. Respondent took a nitrate confirmation sample on September 1, 2005. The

analysis result was 10.6 mg/l.

COUNT IV - WELL NO. 1 EXCEEDANCE OF NITRATE MAXIMUM
CONTAMINANT LEVEL

19. Respondent sampled Well No. 1 on November 8, 2004 for nitrate. The analysis result was 10.6 mg/l.

COUNT V - ALTERATION OR CONSTRUCTION TO WELL NO. 5
WITHOUT A PERMIT

20. Alteration or construction on connecting piping from unapproved Well No. 5 to the System's distribution system occurred on or before December 12, 2005 without a Department permit or clearance letter.

COUNT VI - COSTS AND EXPENSES

21. The Department has incurred expenses to date while investigating this matter in the amount of not less than \$2,000.00.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapter 403, Fla. Stat. and Fla. Admin. Code Title 62. Based on the foregoing facts the Department has made the following conclusions of law:

22. Respondent is a "person" as defined in Section 403.852(5), Fla. Stat.

23. Respondent is the owner of the water system and is a "supplier of water" as defined in Section 403.852(8), Fla. Stat.

24. Respondent's water system is a "public water system" and is a "community water system" as defined in Sections 403.852(2) and (3), Fla. Stat., respectively. The water system draws water from the Floridan Aquifer and thus is also a "ground water system," as that term is used in Fla. Admin. Code Chapters 62-550 and 62-555.

25. The Department is imposing an administrative penalty of less than or equal to \$10,000.00 in this Notice of Violation as calculated in accordance with Section 403.121, Fla. Stat.

26. The facts in Count I constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. Rule 62-550.512(3)(a), Fla. Admin. Code, provides that compliance shall be determined based on the average of the initial and confirmation samples. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

27. The violation in Count I requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding a maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

28. The facts in Count II constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. Rule 62-550.512(3)(a), Fla. Admin. Code, provides that compliance shall be determined based on the average of the initial and confirmation samples. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

29. The violation in Count II requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that

was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

30. The facts in Count III constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. Rule 62-550.512(3)(a), Fla. Admin. Code, provides that compliance shall be determined based on the average of the initial and confirmation samples. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

31. The violation in Count III requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

32. The facts in Count IV constitute a violation of Rule 62-550.310, Fla. Admin. Code, which requires that all public water systems not exceed the primary inorganic nitrate maximum contaminant level of 10 mg/l. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

33. The violation in Count IV requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary inorganic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

34. The facts in Count V constitute a violation of Rule 62-555.520, Fla. Admin. Code,

which requires a construction permit from the Department prior to construction or alteration of any public water system component. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

35. The violation in Count V requires an assessment of an administrative penalty of \$3,000.00 under Section 403.121(4)(c), Fla. Stat.

36. The Department cannot impose penalties in excess of \$10,000.00 in a Notice of Violation. The total administrative penalty is therefore capped at \$10,000.00.

37. The costs and expenses related in Count VI are reasonable costs and expenses incurred by the State while investigating this matter, which are recoverable pursuant to Section 403.141(1) Fla. Stat.

ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged in this Notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent either files a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121(2)(c), Fla. Stat., or files written notice with the Department opting out of this administrative process, pursuant to 403.121(2)(c), Fla. Stat. (See Notice of Rights). If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's Order pursuant to Sections 120.69, 403.121 and 403.131, Fla. Stat.

Pursuant to the authority of Sections 403.061(8) and 403.121, Fla. Stat., the Department proposes to adopt in its Final Order in this case the following specific corrective actions that will

redress the alleged violations:

38. Respondent shall forthwith comply with all Department rules related to community water systems. Respondent shall correct and redress all violations in the time periods required below and shall comply with all applicable rules in Fla. Admin. Code Chapters 62- 550 and 62-555. All documents, reports, and test results that are required to be submitted to the Department shall be submitted to: Gwen Shofner, P.E., Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

39. Within 60 days of the effective date of this Order, Respondent shall submit a permit application and plans signed and sealed by a professional engineer to reduce the levels of nitrate in Wells No. 1, 2, and 4 to below the maximum contaminant level.

40. Within 90 days from issuance of a Department Construction permit, Respondent shall have completed the permitted work authorized in the Department permit to reduce the level of nitrate in the System to below the maximum contaminant level.

41. Respondent shall not distribute any water from Wells No. 1 and 4 to the water distribution network of the System until it receives the following:

- (a) a construction permit pursuant to Rule 62-555.520, Fla. Admin. Code, and
- (b) a clearance letter pursuant to Rule 62-555.345, Fla. Admin. Code, to place Wells No. 1, and 4 into service.

42. In the event nitrate maximum contaminant levels exceed 10 mg/l in Well No. 3, Well No. 3 shall be removed from service and the existing interconnect to Pasco County Utilities shall be activated to supply water to the System until the requirements in paragraphs 39 and 40 above are completed to reduce the levels of nitrate to below the maximum contaminant level.

43. Within 180 days of the effective date of this Order, Respondent's System shall be

in compliance with all Department nitrate standards and the requirements of this Order or the System shall be connected to Pasco County's Public Water System, with all the System's wells physically disconnected and removed from service.

44. Respondent shall not distribute any water from Well No. 5 to the System until it receives the following:

- (a) a construction permit pursuant to Rule 62-555.520, Fla. Admin. Code, and
- (b) a clearance letter, pursuant to Rule 62-555.345, Fla. Admin. Code, to place Well No. 5 into service.

45. Within 30 days of the effective date of this Order, Respondent shall pay \$10,000.00 to the Department for the administrative penalties imposed above. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include thereon the notations "OGC Case No. 05-2698" and "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to Florida Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

46. In addition to the administrative penalties, within 30 days of the effective date of this Order, Respondent shall pay \$2,000.00 to the Department for costs and expenses. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include thereon the notations "OGC Case No. 05-2698" and "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to Florida Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

NOTICE OF RIGHTS

Respondent's rights to negotiate, litigate or transfer this action are set forth below.

Right to Negotiate

47. This matter may be resolved if the Department and Respondent enter into a Consent Order, in accordance with Section 120.57(4), Fla. Stat., upon such terms and conditions as may be mutually agreeable.

Right to Request a Hearing

48. Respondent has the right to a formal administrative hearing pursuant to Sections 120.569, 120.57(1) and 403.121(2), Fla. Stat., if Respondent disputes issues of material fact raised by this First Amended Notice of Violation and Orders for Corrective Action ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel, to present evidence and argument on all issues involved, and to conduct cross-examination and submit rebuttal evidence.

49. Respondent has the right to an informal administrative proceeding pursuant to Sections 120.569 and 120.57(2), Fla. Stat., if Respondent does not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

50. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading entitled "Petition for Administrative Proceeding" within 20 days of receipt of this Notice. The petition must be in the form required by Fla. Admin. Code Rule 62-110.106 and by Fla. Admin. Code Rules 28-106.201 or 28-106.301. A petition is filed

when it is received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000.

Right to Mediation

51. If Respondent timely files a petition challenging the Notice, the Respondent has the right to mediate the issues raised in the Notice. If requested, a mediator will be appointed to assist the Department and Respondent to reach a resolution of some or all of the issues. The mediator is chosen from a list of mediators provided by the Florida Conflict Resolution Consortium ("FCRC"). The FCRC will provide up to 8 hours of free mediation services to the Respondent. A mediator cannot require the parties to settle the case. If mediation is unsuccessful, both parties retain their full rights to litigate the issues before an administrative law judge. The Respondent must select the mediator and notify the FCRC within 15 days of receipt of the list of mediators. The mediation process does not interrupt the time frames of the administrative proceedings and the mediation must be completed at least 15 days before the date of the final hearing.

52. The written request to appoint a mediator must be made within 10 days after receipt of the Initial Order from the administrative law judge appointed to hear the case. The request must be received by the Florida Conflict Resolution Consortium, Shaw Building, Suite 132, 2031 E. Paul Dirac Drive, Tallahassee, FL 32310, 850-644-6320, flacrc@fsu.edu. Once the request is timely received, the FCRC will provide the parties with a list of mediators and the necessary information.

Right to Opt Out of the Administrative Proceeding

53. If Respondent does not wish to contest the issues before an administrative law judge, Respondent may file a notice with the Department opting out of the administrative

process. Respondent must file its written opt out notice within 20 days after service of the Notice. The written notice to opt out is filed when it is received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000.

54. Once the Respondent opts out of the administrative process, the Department may sue the Respondent for injunctive relief, damages, costs and expenses and civil penalties. If the Respondent opts out of the administrative process, the Department may ask the judge to assess civil penalties in excess of the amounts in this Notice up to \$5,000.00 per day per violation. The election to opt out of the administrative process is permanent and once the election is made the administrative process cannot be restarted.

Waivers

55. Respondent will waive the right to a formal hearing or an informal proceeding if either:

- a. a petition for a formal hearing or informal proceeding is not filed with the Department within 20 days of receipt of this Notice, or
- b. a notice opting out of the administrative proceeding is not filed with the Department within 20 days of receipt of this Notice.

These time limits may be varied only by written consent of the Department.

General Provisions

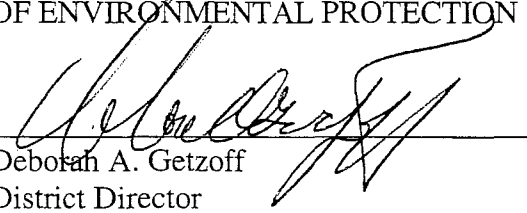
56. The findings of fact and conclusions of law of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to timely file a petition for a formal hearing or informal proceeding, pursuant to Section 403.121, Fla. Stat. A Final Order will constitute a full and final adjudication of the matters alleged in this Notice.

57. If Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Sections 120.69, 403.121 and 403.131, 403.860, Fla. Stat. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$5,000.00 per day for each day that Respondent has failed to comply with the Final Order.

58. Copies of Department rules referenced in this Notice may be examined at any Department Office or may be obtained by written request to the District Office.

DATED this 26th day of November, 2006

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Deborah A. Getzoff
District Director
Southwest District

Copies furnished to:
Lea Crandall, Agency Clerk, Mail Station 35

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

IN THE OFFICE OF THE
SOUTHWEST DISTRICT

Complainant,

vs.

Well #5

OGC FILE NO. 05-2698

U.S. Water Services Corporation d/b/a
Colonial Manor Utilities

Respondent.

NOTICE OF VIOLATION,
ORDERS FOR CORRECTIVE ACTION, AND ADMINISTRATIVE PENALTY
ASSESSMENT

TO: Mr. Gary Deremer
U.S. Water Services Corporation
4939 Cross Bayou Boulevard
New Port Richey, FL 34652

Certified Mail Number 7002 3150 0003 8459 4449

Pursuant to the authority of Section 403.121(2), Florida Statutes ("Fla. Stat.") the State of Florida Department of Environmental Protection ("Department") gives notice to U.S. Water Services Corporation ("Respondent") of the following findings of fact and conclusions of law with respect to violations of Chapter 403, Fla. Stat.

FINDINGS OF FACT

PARAGRAPHS APPLICABLE TO ALL COUNTS

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, Fla. Stat., and the rules promulgated thereunder in Florida Administrative Code ("Fla. Admin. Code") Title 62.

2. Respondent is the owner and operator of Colonial Manor Utilities.

3. Colonial Manor Utilities is a community public water system serving approximately 2,500 persons, PWS No. 651-0355, located at Colonial Manor Subdivision, Mog Road, Pasco County, Florida, Latitude 28 degrees 12 minutes 22 inches North, Longitude 82 degrees 43 minutes 56 inches West ("System"). The System consists of four approved drinking water wells (Wells No. 1, 2, 3, and 4), each equipped with dedicated chlorinator and hydropneumatic storage tank, and with approximate combined capacity of 1.2 million gallons per day. Following the sampling events discussed below, Respondent took Wells No. 1 and 4 out of service and issued Public Notification of the Nitrate violations to the System's customers. Nitrate is a primary inorganic contaminant. The System is currently supplying customers using Wells No. 2 and 3 only. A review of historic monitoring results indicates that, since August 2003, Nitrate concentrations exceeding 9 mg/l but less than 10mg/l have been reported five times for Well No. 2 and four times for Well No. 3.

4. During an inspection of the System on October 12, 2005 the Department determined that a fifth existing well (Well No. 5) was not connected to the System's water distribution network. The fact that no monthly, annual, or triennial sampling results from Well No. 5 have been submitted to the Department in the last ten years confirms that Well No. 5 is inactive. A Department inspection on December 15, 2005 showed that the Well No. 5 had been physically connected to the System's water distribution network. The Department has not issued a permit authorizing this construction activity and has not authorized the use of Well No. 5.

5. The System provides piped water for human consumption to 25 or more of the same individuals for more than 6 months of the year.

6. Respondent was notified of alleged violations of Chapter 403, F.S., and Chapter 62-550, Fla. Admin. Code, described in Counts I and II below, in Warning Letter No. WN05-88-PWS-51-SWD, dated September 8, 2005. Respondent was notified of alleged violations of Chapter 403, F.S., and Chapter 62-555, Fla. Admin. Code, described in Count IV below, in Warning Letter No. WN06-02-PWS-51-SWD, dated January 9, 2006.

Count I

7. Colonial Manor Well No. 1 was sampled by Respondent August 29, 2005 for Nitrate. The analysis result was 10.8 milligrams per liter ("mg/l."). Respondent took a Nitrate confirmation sample September 1, 2005. The analysis result was 10.3 mg/l.

Count II

8. Colonial Manor Well No. 4 was sampled by Respondent August 29, 2005 for Nitrate; the analysis result was 10.4 mg/l. Respondent took a Nitrate confirmation sample September 1, 2005; the analysis result was 10.6 mg/l.

Count III

9. Colonial Manor Well No. 1 was sampled by Respondent November 8, 2004 for Nitrate; the analysis result was 10.6 mg/l.

Count IV

10. Alteration or construction on connecting piping from unapproved Well No. 5 to the Colonial Manor distribution system occurred on or before December 12, 2005 without a Department permit or clearance letter.

Count V

11. The Department has incurred expenses to date while investigating this matter in the amount of not less than \$1,000.00.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapter 403, Fla. Stat. and Fla. Admin. Code Title 62. Based on the foregoing facts the Department has made the following conclusions of law:

12. Respondent is a "person" as defined in Section 403.852(5), Fla. Stat.

13. Respondent is the owner and operator of the water system and is a "supplier of water" as defined in Section 403.852(8), Fla. Stat.

14. Respondent's water system is a "public water system" and is a "community water system" as defined in Sections 403.852(2) and (3), Fla. Stat., respectively. The water system draws water from the Floridan Aquifer and thus is also a "ground water system," as that term is used in Fla. Admin. Code Chapters 62-550 and 62-555.

15. The Department is imposing an administrative penalty of less than or equal to \$10,000.00 in this Notice of Violation as calculated in accordance with Section 403.121, Fla. Stat.

16. The facts in Count I constitute a violation of Fla. Admin. Code Rule 62-550.300, which prohibits a public water system from exceeding the maximum contaminant levels established in that Chapter. The maximum contaminant level for Nitrate is 10 mg/l as established by Fla. Admin. Code, Rule 62-550.310(1)(a). The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

17. The violation in Count I requires an assessment of an administrative penalty of

\$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary organic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

18. The facts in Count II constitute a violation of Fla. Admin. Code Rule 62-550.300, which prohibits a public water system from exceeding the maximum contaminant levels established in that Chapter. The maximum contaminant level for Nitrate is 10 mg/l as established by Florida Administrative Code Rule 62-550.310(1)(a). The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

19. The violation in Count II requires an assessment of an administrative penalty of \$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary organic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

20. The fact in Count III constitutes a violation of Fla. Admin. Code Rule 62-550.300, which prohibits a public water system from exceeding the maximum contaminant levels established in that Chapter. The maximum contaminant level for Nitrate is 10 mg/l as established by Florida Administrative Code Rule 62-550.310(1)(a). The fact also constitutes a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

21. The violation in Count III requires an assessment of an administrative penalty of

\$4,000.00 under Section 403.121(3)(a), Fla. Stat., calculated as follows: \$2,000.00 for exceeding the maximum contaminant level, plus \$1,000.00 because the maximum contaminant level that was exceeded is a primary organic, plus \$1,000.00 because the maximum contaminant level violation occurred at a community water system.

22. The fact in Count IV constitutes a violation of Fla. Admin. Code Rule 62-555.520, which requires a signed, validated permit from the Department before beginning construction or alteration of any drinking water system. Drinking water components include the collection, treatment, storage, and distribution segments of a public water system. The fact also constitutes a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

23. The violation in Count IV requires an assessment of an administrative penalty of \$3,000.00 under Section 403.121(4)(c), Fla. Stat. Pursuant to Section 403.121.(2)(b), 24.Fla. Stat.,

24. The Department cannot impose penalties in excess of \$10,000.00 in a notice of violation. The total administrative penalty is therefore capped at \$10,000.00.

25. The costs and expenses related in Count V are reasonable costs and expenses incurred by the State while investigating this matter, which are recoverable pursuant to Section 403.141(1) Fla. Stat.

ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged in this Notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent either files a timely petition for a formal hearing or informal

proceeding, pursuant to Section 403.121(2)(c), Fla. Stat., or files written notice with the Department opting out of this administrative process, pursuant to 403.121(2)(c), Fla. Stat. (See Notice of Rights.) If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's Order pursuant to Sections 120.69, 403.121 and 403.131, Fla. Stat.

Pursuant to the authority of Sections 403.061(8) and 403.121, Fla. Stat., the Department proposes to adopt in its Final Order in this case the following specific corrective actions that will redress the alleged violations:

26. Respondent shall forthwith comply with all Department rules related to community water systems. Respondent shall correct and redress all violations in the time periods required below and shall comply with all applicable rules in Fla. Admin. Code Chapter 62- 550 and 62-555. All documents, reports, and test results that are required to be submitted to the Department shall be submitted to: Gwen Shofner, P.E., Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

27. Within 60 days of the effective date of this Notice of Violation, Respondent shall submit a permit application and plans signed and sealed by a professional engineer to reduce Nitrate in the System to below the maximum contaminant level. Rule 62-550 Fl. Admin Code requires increased quarterly monitoring for systems that exceed one half the Nitrate maximum contaminant level.

28. Within 90 days from issuance of a Department Construction permit, Respondent shall have completed the necessary work authorized in the Department permit above to reduce Nitrate in the System to below the maximum contaminant level.

29. Respondent may in lieu of completing the action in (26) and (27) above, within 30 days, physically disconnect Wells 1 and 4 from the System. Respondent shall not distribute any water from Wells 1 and 4 to the water distribution network of the System until it receives

- (a) a construction permit pursuant to Rule 62-555.520, Fla. Admin. Code, and
- (b) a clearance letter pursuant to Rule 62-555.345, Fla. Admin. Code to place Wells 1 and 4 into service.

30. Respondent shall monitor the System for Nitrate on a quarterly basis for one year following the completion of the permitted activities authorized in (27) above. The monitoring will include sampling the raw water from each operational well and the finished water at the point of entry to the distribution network of the System.

31. Wells No.1 and 4 shall not be placed back into service without written approval of the Department.

32. In the event Nitrate testing in (29) above exceeds 10mg/l, Wells 2 and 3 shall be removed from service and the existing interconnect to Pasco County Utilities shall be activated to supply water to the System until the completion of the requirement in (27) above.

33. In any event by May 1, 2007, Respondent's System shall be in compliance with all Department Nitrate standards and the requirements of this Notice of Violation or the System shall be connected to Pasco County's Public Water System, with all the System's wells that violate the Nitrate maximum contaminant level removed from service.

34. Respondent shall not distribute any water from Well 5 to the System until it receives

- (a) a construction permit pursuant to Rule 62-555.520, Fla. Admin. Code and

(b) a clearance letter, pursuant to Rule 62-555.345, Fla. Admin. Code to place Well 5 into service.

35. Within 30 days of the effective date of this Order, Respondent shall pay \$10,000.00 to the Department for the administrative penalties. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include thereon the OGC Case number and the notation "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to Florida Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

36. In addition to the administrative penalties, within 30 days of the effective date of this Order, Respondent shall pay \$2,000.00 to the Department for costs and expenses. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include thereon the OGC Case number assigned to this case and the notation "Ecosystem Management and Restoration Trust Fund." The payment shall be sent to Florida Department of Environmental Protection, Southwest District, 13051 N. Telecom Parkway, Temple Terrace, FL 33637-0926.

NOTICE OF RIGHTS

Respondent's rights to negotiate, litigate or transfer this action are set forth below.

Right to Negotiate

37. This matter may be resolved if the Department and Respondent enter into a Consent Order, in accordance with Section 120.57(4), Fla. Stat., upon such terms and conditions as may be mutually agreeable.

Right to Request a Hearing

38. Respondent has the right to a formal administrative hearing pursuant to Sections 120.569, 120.57(1) and 403.121(2), Fla. Stat., if Respondent disputes issues of material fact raised by this Notice of Violation and Orders for Corrective Action ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel, to present evidence and argument on all issues involved, and to conduct cross-examination and submit rebuttal evidence.

39. Respondent has the right to an informal administrative proceeding pursuant to Sections 120.569 and 120.57(2), Fla. Stat., if Respondent does not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

40. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading entitled "Petition for Administrative Proceeding" within 20 days of receipt of this Notice. The petition must be in the form required by Fla. Admin. Code R. 62-110.106 and by Fla. Admin. Code R. 28-106.201 or 28-106.301. A petition is filed when it is received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000.

Right to Mediation

41. If Respondent timely files a petition challenging the Notice, the Respondent has the right to mediate the issues raised in the Notice. If requested, a mediator will be appointed to assist the Department and Respondent to reach a resolution of some or all of the issues. The

mediator is chosen from a list of mediators provided by the Florida Conflict Resolution Consortium (FCRC). The FCRA will provide up to 8 hours of free mediation services to the Respondent. A mediator cannot require the parties to settle the case. If mediation is unsuccessful, both parties retain their full rights to litigate the issues before an administrative law judge. The Respondent must select the mediator and notify the FCRC within 15 days of receipt of the list of mediators. The mediation process does not interrupt the time frames of the administrative proceedings and the mediation must be completed at least 15 days before the date of the final hearing.

42. The written request to appoint a mediator must be made within 10 days after receipt of the Initial Order from the administrative law judge appointed to hear the case. The request must be received by the Florida Conflict Resolution Consortium, Shaw Building, Suite 132, 2031 E. Paul Dirac Drive, Tallahassee, FL 32310, [850-644-6320](tel:850-644-6320), flacrc@fsu.edu. Once the request is timely received, the FCRC will provide the parties with a list of mediators and the necessary information.

Right to Opt Out of the Administrative Proceeding

43. If Respondent does not wish to contest the issues before an administrative law judge, Respondent may file a notice with the Department opting out of the administrative process. Respondent must file its written opt out notice within 20 days after service of the Notice. The written notice to opt out is filed when it is received by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000.

44. Once the Respondent opts out of the administrative process, the Department may sue the Respondent for injunctive relief, damages, costs and expenses and civil penalties. If the Respondent opts out of the administrative process, the Department may ask the judge to assess civil penalties in excess of the amounts in this Notice up to \$5,000.00 per day per violation. The

election to opt out of the administrative process is permanent and once the election is made the administrative process cannot be restarted.

Waivers

45. Respondent will waive the right to a formal hearing or an informal proceeding if either

a. a petition for a formal hearing or informal proceeding is not filed with the Department within 20 days of receipt of this Notice, or

b. a notice opting out of the administrative proceeding is not filed with the Department within 20 days of receipt of this Notice.

These time limits may be varied only by written consent of the Department.

General Provisions

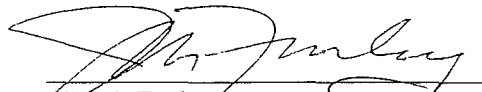
46. The findings of fact and conclusions of law of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to timely file a petition for a formal hearing or informal proceeding, pursuant to Section 403.121, Fla. Stat. A Final Order will constitute a full and final adjudication of the matters alleged in this Notice.

47. If Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Sections 120.69, 403.121 and 403.131, 403.860, Fla. Stat. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$5,000.00 per day for each day that Respondent has failed to comply with the Final Order.

48. Copies of Department rules referenced in this Notice may be examined at any Department Office or may be obtained by written request to the District Office.

DATED this 13th day of July, 2006

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



J. M. Farley
Interim District Director
Southwest District

Copies furnished to:
Lea Crandall, Agency Clerk
Mail Station 35



Jeb Bush
Governor

Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Colleen M. Castille
Secretary

Ronda L. Moore
Assistant General Counsel
3900 Commonwealth Blvd., MS 35
Tallahassee, Florida 32399-3000
Ph. 850-245-2193
Fax 850-245-2301
ronni.moore@dep.state.fl.us

December 21, 2006

The Honorable Bram D. E. Canter
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Re: State of Florida Department of Environmental Protection vs. Colonial Manor Utility, Co.;
Case No. 06-4121EF

Dear Judge Canter:

Enclosed please find Colonial Manor Utility, Co.'s Petition for Formal Administrative Hearing regarding the Department's Amended Notice of Violation, Orders for Corrective Action and Administrative Penalty Assessment in the above styled-case.

Sincerely,

Ronda L. Moore
Assistant General Counsel

Encl.

cc: Colonial Manor Utility Co. ✓

Petition
to
Request A Formal Administrative Hearing

(Sections 120.569, 120.57(1), and 403.121(12) Florida Statutes)

Petitioner (Respondent):

Gary Deremer, President
Colonial Manor Utilities
4939 Cross Bayou Blvd.
New Port Richey, FL 34652

Agency Affected (Complainant):

State of Florida
Department of Environmental Protection
Southwest District
13051 N. Telecom Parkway
Temple Terrace, FL 33637-0926

Petition Submitted to:

Office of the General Counsel
State Of Florida
Department of Environmental Protection
3900 Commonwealth Blvd. MS-35
Tallahassee, FL 32399-3000
Attention: Lea Crandall, Agency Clerk

File Number:

OGC File No. 05-2698

Date:

N.O.V. Dated: Nov. 26, 2006
Received: Dec. 4, 2006

Colonial Manor Utility Company
Petition for Admin Hearing
12/20/06

Petition for Formal Administrative Hearing

To: The Office of General Counsel
State of Florida
Department of Environmental Protection
3900 Commonwealth Boulevard, MS-35
Tallahassee, FL 32399-3000

1) Petitioner, Gary Deremer, whose address is 4939 Cross Bayou Boulevard, New Port Richey, FL 34652 (Telephone No. 727-848-8292), is the owner and operator of Colonial Manor Utility Company (Company), a community water system serving approximately 2500 persons (PWS No. 651-0355) located at Colonial Manor Subdivision approximately 1 mile southwest of the City of Elfers and ½ mile east of US Highway 19 in Pasco County, FL.

2) Petitioner hereby files this petition, pursuant to Sections 120.56 and 120.57 Florida Statutes, to dispute the issues of material fact and the related conclusions of law contained in the "First Amended Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment" ("NOV"), dated Nov. 26, 2006, signed by Deborah A. Getzoff, District Director, Department of Environmental protection, Southwest District and received by certified mail on Dec. 4, 2006, concerning the Company and to request an evidentiary proceeding pursuant to section 28-106.201 Florida Administrative Code. The petitioner is substantially affected by the Department's proposed "Orders for Corrective Action" since the Proposed Orders for Corrective Action and the proposed administrative penalties materially impose a financial burden on the petitioner and unreasonably increases the costs of operating the Company.

3) The Petitioner became owner of water system on January 20, 2004. The water system consists of five drinking water wells with a combined permit capacity of 0.386 million gallons per day.

Even though most of the homes in the subdivision are served by a central water system, sewage disposal is by individual on-site septic tanks. Due to the high density of the on-site sewage disposal systems, the ground water is impacted as nitrates find their way into the drinking water supply wells in varying concentrations. This problem has been documented by the Department and other agencies. Attempts to provide central sewerage system for the affected areas and eliminate the septic tanks have failed due to Pasco County's unwillingness to undertake the project. The petitioner is diligently seeking a technological solution to the nitrate issue after having failed in attempts to get appropriate authorities to remediate the ground water contamination or to sewer the affected area, or to release their franchise to service the area to the petitioner such that the petitioner may provide sewer service to the area.

In light of this background, the petitioner offers the following in response to the Department's Notice of Violation of Nov. 26, 2006:

4) Petitioner's Response to Findings of Fact:

Count I

"Respondent sampled Well No. 2 on October 11, 2006 for nitrate. The analysis result was 12.0 mg/l. Respondent took a nitrate confirmation sample on October 30, 2006. The analysis result was 9.94 mg/l."

Petitioner's response: Petitioner does not dispute the analytical results but does dispute their use in the finding of a violation.

Count II

"Respondent sampled Well No. 1 August 29, 2005 for Nitrate. The analysis result was 10.8 milligrams per liter "mg/l". Respondent took a Nitrate confirmation sample September 1, 2005. The analysis result was 10.3 mg/l."

Petitioner's response: Petitioner does not dispute the analytical results but disputes their use in the finding of a violation.

Count III

"Respondent sampled Well No.4 on August 29, 2005 for Nitrate. The analysis result was 10.4 mg/l. Respondent took a Nitrate Confirmation sample September 1, 2005. The analysis result was 10.6 mg/l"

Petitioner's response: Petitioner does not dispute the analytical results but disputes their use in the finding of a violation.

Count IV

"Respondent sampled Well No. 1 on November 8, 2004 for Nitrate. The analysis result was 10.6 mg/l"

Petitioner's response: Petitioner does not dispute the analytical results but disputes their use in the finding of a violation.

Count V

"Alteration or construction on connecting piping from unapproved well No. 5 to the system distribution occurred on or before December 12, 2005, without a department permit or clearance letter."

Petitioner's Response: Petitioner disputes the Finding as Incorrect, without merit and in disregard to historical facts.

Count VI

“The Department has incurred expenses to date while investigating this matter in the amount of not less than \$2000.00”

Petitioner’s Response: Petitioner has seen no evidence of expenses that are eligible for reimbursement to the Department.

5) Petitioner’s Response to Department’s Conclusions of Law:

Count I:

The Department has concluded that “the facts in Count I constitute a violation of Fla. Admin. Code Rule 62-550.310, which prohibits a public water system from exceeding the maximum contaminant levels established in that Chapter” (page 5, paragraph 26 of the NOV).

Petitioner’s Response: In accordance with Rule 62-550.500, (6) and 62-550.500, (7)(a), compliance with MCL for nitrate is determined based on the average of the initial and confirmation samples. Also, “for systems that are taking more than one sample per year, compliance is determined by a running annual average of all samples taken at each sampling point. If the running annual average of any sampling point is greater than the maximum contaminant level, then the system is out of compliance {Rule 62-550.500, (7) (a) F.A.C.} The FDEP did not use the annual running average as the “measurement of compliance” for the MCL “violation” but based its decision on a single sampling event. This is inconsistent with the compliance requirements of Department Rule 62-550.500, (6) which specifically addresses nitrate and directs the use of Rule 62-550.500, (7)(a) for compliance determination. The running annual average for Well No. 2 (and for the other wells of Colonial Manor) does not exceed the MCL of 10 mg/l and therefore does not constitute a violation of Rule 62-550.300, Florida Administrative Code. Therefore, the proposed administrative (monetary) penalty and NOV is not supported by the Department rules.

Count II

Petitioner’s Response: Insofar as Well No. 1 is concerned, the petitioner submits the same response as for Count I above. The Department used a single sampling event as the basis for its decision as to what constitutes the “measurement of compliance” concerning MCL for nitrate. The petitioner took Well No. 1 out of service, voluntarily, immediately after receiving the results of the confirmatory sample. A public notice was also issued pursuant to the FDEP rules. Therefore, it is the petitioner’s contention that Colonial Manor Utilities complied with all applicable rules of FDEP in this situation and went beyond the requirements of the rules by taking the well out of service and did not violate any rule. The proposed administrative penalty is not supported by the rules.

Count III

Petitioner's Response: Colonial Manor well No. 4 exceeded nitrate MCL in a sample collected on August 29, 2005 and a confirmation sample collected on September 1, 2005. The Petitioner submits the same facts as put forth above for counts I and II, and claims that Colonial Manor is not in violation of nitrate MCL based on this sampling event or the running annual average which did not exceed the MCL. Again, the administrative penalty is unjustified and arbitrary.

Count IV

Petitioner's Response: Colonial Manor well No. 1 exceeded nitrate MCL in a sample collected on Nov. 8, 2004. The Petitioner submits the same facts as put forth above for counts I, II, and III, and claims that Colonial Manor is not in violation of nitrate MCL based on this sampling event or the running annual average which did not exceed the MCL. Again, the administrative penalty is unjustified and arbitrary.

Count V

Petitioner's Response: The petitioner disputes the conclusions of law because no modification to the water system has been made with regard to Well No.5 that required a permit and that no water has been introduced to the distribution system from this well. The petitioner did not endanger the health and safety of the water system's customers by introducing water from a well that has not been "approved" by the Department. The petitioner was at all times in full compliance with 62-555.520, (d) relative to the work being performed; therefore, there is no regulatory basis for the proposed administrative penalty.

Count VI

Petitioner's Response: The petitioner contends that the petitioner is not liable for the costs incurred by the Department since the purported violations are based on misinterpretation of applicable laws. The petitioner further requests recovery of costs, including attorney fees, to defend the Company from unreasonable and arbitrary interpretations of Florida's laws.

6) Petitioner's Request for Relief:

The petitioner contends that the Colonial Manor Utility Company is in full compliance with Chapter 403 Florida Statutes and the Rules of the Department of Environmental Protection (Chapters 62-550 and 62-555, Florida Administrative Code). Therefore, the petitioner requests the Department of Environmental Protection to withdraw the Notice of Violation or, alternatively, grant the Petitioner a formal administrative hearing, pursuant to Sections 120.569, 120.57 (1) and 403.121 (2), Florida Statutes, to dispute the issues of material fact and the conclusions of law contained in the NOV, and to contest the proposed administrative penalties.

Respectfully Submitted,

Gary Deremer, President
Colonial Manor Utility Company
4939 Cross Bayou Boulevard
New Port Richey, FL 34652
Telephone: 727-848-8292
Fax 727-848-7701

Copies of this petition has been delivered by Facsimile and sent by Federal Express (overnight) on December 20, 2006 to:

Office of the General Counsel
State Of Florida
Department of Environmental Protection
3900 Commonwealth Blvd. MS-35
Tallahassee, FL 32399-3000
Attention: Lea Crandall, Agency Clerk

GARY DEREMER
COLONIAL MANOR UTILITY CO
4939 CROSS BAYOU BLVD
NEW PRT RICHEY FL 34652

06-4121EF

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF ENVIRONMENTAL)
PROTECTION,)
)
Petitioner,)
)
vs.) Case No. 06-4121EF
)
U.S. WATER SERVICES)
CORPORATION, d/b/a COLONIAL)
MANOR UTILITIES,)
)
Respondent.)
_____)

NOTICE OF HEARING

A hearing will be held in this case at the Department of Children and Family Services, Large Conference Room, Suite 100, First Floor, Counsel Square II, Building 2, 7601 Little Road, New Port Richey, Florida, on February 8, 2007, at 9:00 a.m., or as soon thereafter as can be heard. Continuances will be granted only by order of the Administrative Law Judge for good cause shown.

ISSUE: As set forth in the Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment.

AUTHORITY: Chapter 120, Florida Statutes; and Chapter 28-106, Parts I and II, Florida Administrative Code.

The parties shall arrange to have all witnesses and evidence present at the time and place of hearing. Subpoenas will be issued by the Administrative Law Judge upon request of the parties. All parties have the right to present oral argument and to cross-examine opposing witnesses. All parties have the right to be represented by counsel or other qualified representative, in accordance with Rule 28-106.106, Florida Administrative Code. Failure to appear at this hearing may be grounds for entry of a recommended order of dismissal.

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF ENVIRONMENTAL)
PROTECTION,)
)
Petitioner,)
)
vs.) Case No. 06-4121EF
)
U.S. WATER SERVICES)
CORPORATION, d/b/a COLONIAL)
MANOR UTILITIES,)
)
Respondent.)
_____)

ORDER OF PRE-HEARING INSTRUCTIONS

This cause having been scheduled for final hearing, it is, therefore,

ORDERED that:

1. Counsel for all parties shall meet no later than 15 days prior to the date for final hearing in this cause and shall:

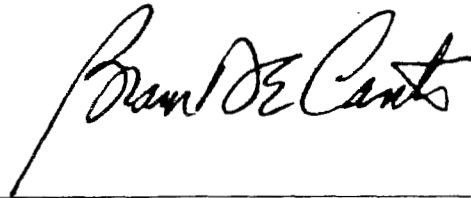
- (a) Discuss the possibility of settlement;
- (b) Stipulate to as many facts and issues as possible;
- (c) Prepare the pre-hearing stipulation as required by this Order;
- (d) Examine all exhibits (except for impeachment exhibits) proposed to be offered into evidence at the hearing;
- (e) Furnish opposing counsel the names and addresses of all witnesses (except for impeachment witnesses); and
- (f) Complete all other matters which may expedite the hearing in this case.

(k) An estimate as to the length of time required for the hearing; and

(l) The signature of counsel for all parties.

4. The parties shall file their pre-hearing stipulation no later than 10 days prior to the date set for final hearing in this cause. If for any reason the pre-hearing stipulation cannot be executed by all counsel, each attorney shall file and serve a separate proposed pre-hearing statement no later than 7 days before the final hearing with a statement of reasons why no agreement was reached on the stipulation. Failure to comply with the requirements of this Order may result in the exclusion of witnesses or exhibits not previously disclosed.

DONE AND ORDERED this 7th day of November, 2006, in Tallahassee, Leon County, Florida.



BRAM D. E. CANTER
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 7th day of November, 2006.

COPIES FURNISHED:

Ronda L. Moore, Esquire
Department of Environmental Protection
3900 Commonwealth Boulevard
Mail Station 35
Tallahassee, Florida 32399-3000

GARY DEREMER
COLONIAL MANOR UTILITY CO
4939 CROSS BAYOU BLVD
NEW PRT RICHEY FL 34652

06-4121EF

SUMMARY OF PROCEDURES

This case has been filed with the Division of Administrative Hearings to conduct an evidentiary hearing governed by Chapter 120, Florida Statutes, and Chapter 28-106, Parts I and II, Florida Administrative Code.

THE PARTIES SHALL TAKE NOTICE THAT:

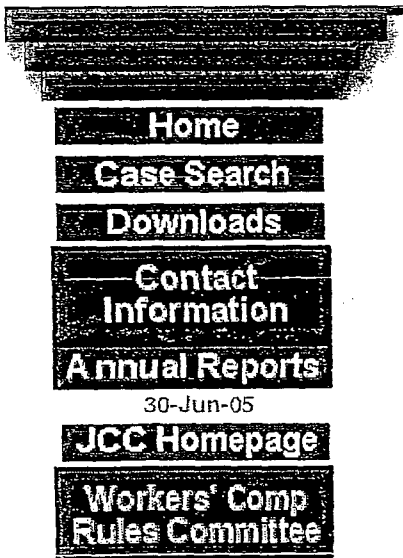
1. Discovery may be undertaken in the manner provided in the Florida Rules of Civil Procedure and, if desired, should be initiated immediately. Subpoenas may be obtained from the Judge by contacting (850) 488-9675, extension 111. Discovery must be completed 5 days before the date of the final hearing unless an extension of time for good cause is granted.
2. The government agency for whom a hearing is conducted will make arrangements for preserving the testimony at the final hearing.
3. A party may appear personally or be represented by an attorney or other qualified representative, pursuant to Rule 28-106.106, Florida Administrative Code.
4. Rule 28-106.210, Florida Administrative Code, provides that requests for continuances must be filed with the Judge at least 5 days prior to the date of hearing, except in cases of extreme emergency, and will only be granted for good cause shown.
5. Parties will promptly notify the Judge in the event of a settlement or other development which might alter the scheduled hearing.
6. The parties are expected to discuss the possibility of settlement, enter into pre-hearing stipulations of fact and law, identify and limit issues, and exchange exhibit and witness lists prior to the hearing.
7. If all parties agree, this case may proceed as a summary hearing, without discovery, if requested by motion within 15 days from the date of this Order. A Final Order will be entered within 30 days after the hearing.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Judge's secretary no later than seven days prior to the hearing. The Judge's secretary may be contacted at the address or telephone numbers on page one, via 1-800-955-8770 (Voice), or 1-800-955-8771 (TDD) Florida Relay Service.

COPIES FURNISHED:

Ronda L. Moore, Esquire
(850)245-2193

Gary Derejmer
(727)848-8292



Representing Yourself Before The Division of Administrative Hearings

State of Florida
Division of Administrative Hearings
The Desoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
SUNCOM 278-9675
Fax Filing (850) 921-6847

This page has been prepared by the Division of Administrative Hearings (DOAH) to explain the administrative hearing process in Florida under Chapter 120, Florida Statutes, and to help you prepare for a hearing.

It is important to remember that the information presented on this page is general and is intended to cover the usual situation. The explanations do not cover all of the possible situations which may arise in a case. You should also consult the rules of DOAH (Chapter 28-106, Parts I and II, Florida Administrative Code).

WHAT IS THE DIVISION OF ADMINISTRATIVE HEARINGS?

DOAH is a state agency that employs full-time Administrative Law Judges to conduct hearings in most cases in which the substantial interests of a person are determined by an agency and which involve a disputed issue of material fact. When a state agency proposes to take some action that is adverse to a person, the affected person is normally entitled to request an administrative hearing to determine the matter. Requests for hearings are initially made to the appropriate state agency. If the case does not involve disputed facts, the agency itself will conduct a proceeding and subsequently render a decision. If the request for hearing indicates that the affected person disputes facts upon which the proposed action is based, the agency ordinarily refers the case to DOAH for a hearing. DOAH provides a hearing conducted by an independent and neutral Administrative Law Judge who thereafter writes a decision, either a Recommended or Final Order, which is provided to the state agency and the parties in the case. In the case of a Recommended Order, the agency reviews the Order and issues a final decision which usually adopts the Judge's factual findings, but may under certain circumstances reject or modify certain legal conclusions of the Judge or the recommended penalty, if any. If the final decision is adverse to the non-agency party, an appeal may be taken within a limited time to a District Court of Appeal.

HOW WILL I KNOW IF MY CASE HAS BEEN SENT TO DOAH?

If a case is sent to DOAH for a hearing, the state agency ordinarily sends a copy of the transmittal letter or order to the affected parties. In addition, as soon as DOAH has assigned a Judge to the case, you will be notified of his or her name and the DOAH case number. If your address changes, be sure to notify the Division in writing so that you can be properly notified about the hearing date and receive your copy of the Recommended Order.

WILL I RECEIVE OTHER NOTICES FROM DOAH?

In most cases, you will receive an Initial Order which will provide procedural instructions concerning the proceeding and ask you to advise the

testify. If the witness will not attend voluntarily, you should call the Deputy Clerk to request a subpoena at (850) 488-9675, extension 111 (Cathi Lindsley), or request your subpoena by mail. A subpoena is a legal document which orders a person to appear at the hearing and to give testimony. You should find out as soon as possible whether you will need to subpoena anyone. If so, call the telephone number listed on the Notice of Hearing. You will be sent subpoena forms signed by the Judge which show the name and number of the case, but otherwise are in blank. Fill out each form as instructed and then have the subpoenas served either by a disinterested person or by the Sheriff's Office. The subpoena should be served immediately in order to give the witness time to get ready for the hearing. You must include a witness fee with the subpoena. If the witness lives in the county where the hearing will be held, the fee is \$5 per day plus 6 cents a mile for actual mileage. Additional fees must be tendered if the witness is required to travel to the hearing in a county other than where the witness resides. Expert witnesses generally require payment of an expert witness fee. No fees need be tendered to subpoenaed witnesses who are employees of the state. Read the instructions on the back of the subpoena and make sure that the person who serves the subpoena executes the affidavit on the reverse side.

A person who is subpoenaed and who feels that his or her presence at the hearing is unnecessary, unfair, or untimely can object to the Judge by filing a Motion to Quash the Subpoena. The Judge will consider the objection and decide whether that person must obey the subpoena. Other questions about the subpoena, such as whether you have to be there exactly at the time specified, should be directed to the person who requested the subpoena (his/her name and telephone number are on the subpoena).

DO I HAVE TO BE REPRESENTED BY AN ATTORNEY AT THE HEARING?

No, you may be represented by an attorney if you so choose, at your expense, or you may present the case yourself. Additionally, you may be represented at the hearing by a non-lawyer who is determined by the Judge to be qualified to protect your rights. This generally requires a prehearing conference or affidavit filed by the individual representing you showing that he or she is conversant with the law and procedures involved in your case and can protect your right to appeal. DOAH's requirements for qualification of a representative are contained in Rule 28-106.106, Florida Administrative Code, at your county law library.

HOW SHOULD I PREPARE FOR THE HEARING?

In preparing for the hearing, it may be helpful to make a list of all the information which relates to your case and which you may want to present. Bring the originals and enough copies of all documents to the hearing so that you can give one to each of the other parties and one to the Judge.

Persons who have knowledge of your case should be asked to attend the hearing and testify on your behalf. Subpoenas should be issued for such individuals if you believe it to be necessary. If you need the testimony of a person who is an expert, such as a doctor, you may also ask that person to attend the hearing and testify. However, you may have to pay the expert a fee.

WHERE WILL THE HEARING BE HELD?

If the hearing is held in Tallahassee, DOAH has hearing rooms at its offices. In other cities, DOAH uses courtrooms, city or county commission chambers, conference rooms in state office buildings, or similar facilities. The Notice of Hearing will tell you where the hearing will be held. The Judge may be present at the hearing or may conduct the hearing by video teleconferencing.

Judge immediately to explain why. If you do not contact the Judge, or if you do not have an adequate explanation for not attending the hearing, the Judge may decide against you in the case.

If an emergency arises on your hearing date and you will be late for the hearing, you should attempt to telephone the Judge at the hearing location and explain the problem. If you cannot reach the Judge at that location, call the Judge's secretary in Tallahassee and explain the problem.

CAN I GET A TRANSCRIPT (WRITTEN RECORD) OF THE HEARING?

Yes, but you must pay the cost of preparing the transcript. If the hearing was videotaped or tape-recorded, you must write to the agency concerned and request a transcript. If the hearing was recorded by a court reporter and the agency ordered a transcript, you must contact the agency or DOAH and arrange for a transcript. If the agency did not order a transcript, you must contact the court reporting firm or the DOAH court reporting office and you will be sent a copy upon payment.

CAN I OBJECT TO THE MATTERS CONTAINED IN A RECOMMENDED ORDER?

Yes, such objections are called "exceptions" and must be sent to the agency head (not DOAH or the Judge) within 15 days after the date of a Recommended Order. The objections may be in a letter and should explain the particular portions of the Recommended Order with which you disagree and the specific reasons for your disagreement. If you believe that the Judge made a mistake concerning the facts in your case, you should point out those parts of the transcript which support your argument. If you cannot meet the deadline for submitting exceptions, you should write to the agency head and ask for an extension before the 15-day deadline.

WHEN MUST A FINAL DECISION BE MADE?

Generally, the agency head must render a Final Order in the case within 90 days of the date the Recommended Order was submitted to the agency.

IS THERE ANY FURTHER APPEAL FROM THE AGENCY'S FINAL DECISION?

If the final decision is not in your favor, you have the right to appeal to an appropriate District Court of Appeal within 30 days of the date of the Final Order. The Florida Rules of Appellate Procedure provide the procedures for filing the appeal.

AMERICANS WITH DISABILITIES ACT

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the Judge's secretary no later than seven days prior to the hearing. The Judge's secretary may be contacted at our address or telephone numbers, via 1-800-955-8771 (TDD), or 1-800-955-8770 (Voice) Florida Relay Service.



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State of Florida • Division of Administrative Hearings
The Desoto Building • 1230 Apalachee Parkway
Tallahassee, FL 32399-3050
(850) 488-9675 • SUNCOM 278-9675 • Fax Filing (850) 921-6847

J. ANN COWLES ESQUIRE
DEPT OF TRANSPORTATION 5500
HAYDON BURNS BLDG MS 58
605 SUWANNEE ST
TALLAHASSEE FL 32399-0458

06-4122

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JET OIL, INC.,)
)
 Petitioner,)
)
 vs.) Case No. 06-4122
) 06-068
 DEPARTMENT OF TRANSPORTATION,)
)
 Respondent.)
)
 _____)

INITIAL ORDER

1. The original pleadings and other documents shall be filed on 8.5" x 11" paper at the address below and a copy served upon all other parties. They also may be faxed in lieu of original document filing. All pleadings and motions must contain the DOAH style and case number. It is the individual's responsibility to ensure that no information protected by privacy or confidentiality laws is contained in any document that would be posted to DOAH's website in the regular course of business.
2. THE AGENCY OR, WHERE THE AGENCY IS NOT A PARTY, THE PETITIONER SHALL COORDINATE WITH ALL PARTIES AND PROVIDE THE FOLLOWING INFORMATION WITHIN 7 DAYS OF THE DATE OF THIS ORDER. If coordination is not possible, each party shall individually provide the information.
 - a. Any related cases before the Division and, if so, the DOAH case number;
 - b. Estimated length of time necessary to conduct the final hearing;
 - c. Suggested geographic location for the final hearing;
 - d. All dates more than 30 and less than 70 days from the date of this Order on which you are available for the final hearing.
3. Florida attorneys who have previously registered at the DOAH website may file the information requested in paragraph 2 electronically.
4. FAILURE TO COMPLY WITH THE PROVISIONS OF PARAGRAPH 2 SHALL WAIVE VENUE RIGHTS, AND THE FINAL HEARING WILL BE SET IN TALLAHASSEE AS SOON AS POSSIBLE.

DONE AND ORDERED this 20th day of October, 2006, in Tallahassee, Leon County, Florida.



R. BRUCE MCKIBBEN
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 20th day of October, 2006.

Faxed to OGC 8/7/06
Fedexed to OGC 8/8/06

Petition
to
Request A Formal Administrative Hearing

(Sections 120.569, 120.57(1), and 403.121(12) Florida Statutes)

Petitioner (Respondent):

Gary Deremer, Owner
Colonial Manor Utilities
4939 Cross Bayou Blvd.
New Port Richey, FL 34652

Agency Affected (Complainant):

State of Florida
Department of Environmental Protection
Southwest District
13051 N. Telecom Parkway
Temple Terrace, FL 33637-0926

Petition Submitted to:

Office of the General Counsel
State Of Florida
Department of Environmental Protection
3900 Commonwealth Blvd. MS-35
Tallahassee, FL 32399-3000
Attention: Lea Crandall, Agency Clerk

File Number:

OGC File No. 05-2698

Colonial Manor Utility Company
Petition for Admin Hearing

Petition for Formal Administrative Hearing

To: The Office of General Counsel
State of Florida
Department of Environmental Protection
3900 Commonwealth Boulevard, MS-35
Tallahassee, FL 32399-3000

1) The petitioner, Gary Deremer, whose address is 4939 Cross Bayou Boulevard, New Port Richey, FL 34652 (Telephone No. 727-848-8292), is the owner of Colonial Manor Utility Company (Company), a community water system serving approximately 2500 persons (PWS No. 651-0355) located at Colonial Manor Subdivision approximately 1 mile southwest of the City of Elfers and ½ mile east of US Highway 19 in Pasco County, FL.

2) Petitioner hereby files this petition, pursuant to Sections 120.56 and 120.57 Florida Statutes, to dispute the issues of material fact and the related conclusions of law contained in the " Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment" ("NOV"), dated July 13,2006, signed by J.M. Farley, Interim Director, Department of Environmental protection, Southwest District and received by certified mail, concerning the Company and to request an evidentiary proceeding pursuant to section 28-106.201 Florida Administrative Code. The petitioner is substantially affected by the Department's proposed "Orders for Corrective Action" since the Proposed Orders for Corrective Action and the proposed administrative penalties materially impose a financial burden on the petitioner and unreasonably increases the costs of operating the Company.

3) The Petitioner became the owner of the water system on January 20, 2004. The water system consists of five drinking water wells with a combined capacity of 353,000 gallons per day.

Even though most of the homes in the subdivision are served by a central water system, sewage disposal is by individual on-site septic tanks. Due to the high density of the on-site sewage disposal systems, the ground water is impacted as nitrates find their way into the drinking water supply wells in varying concentrations. This problem has been documented by the Department and other agencies. Attempts to provide central sewerage system for the affected areas and eliminate the septic tanks have failed due to Pasco County's unwillingness to undertake the project. The petitioner is diligently seeking a technological solution to the nitrate issue after having failed in attempts to get appropriate authorities to remediate the ground water contamination or to sewer the affected area.

In light of this background, the petitioner offers the following in response to the Department's Notice of Violation of July 13, 2006:

4) Petitioner's Response to Findings of Fact:

Count I:

"Colonial Manor Well No.1 was sampled by Respondent August 29, 2005 for Nitrate. The analysis result was 10.9 milligrams per liter {"mg/l". Respondent took a Nitrate confirmation sample September 1, 2005. The analysis result was 10.3 mg/l."

Petitioner's response: Petitioner does not dispute the analytical results but disputes their soul use in the finding of a violation.

Count II

Colonial Manor Well No.4 was sampled by Respondent August 29,2005 for Nitrate; the analysis was 10.4 mg/l. Respondent took a Nitrate Confirmation sample September 1, 2005; the analysis result was 10.6 mg/l"

Petitioner's response: Petitioner does not dispute the analytical results but disputes their soul use in the finding of a violation.

Count III

"Colonial Manor Well No. 1 was sampled by Respondent November 8, 2004 for Nitrate; the analysis result was 10.6 mg/l"

Petitioner's response: Petitioner does not dispute the analytical results but disputes their soul use in the finding of a violation

Count IV

"Alteration or construction on connecting piping from unapproved well No. 5 to the Colonial Manor distribution occurred on or before December 12, 2005, without a department permit or clearance letter."

Petitioner's Response: Petitioner disputes the Finding as Incorrect, without merit and in disregard to historical facts

Count V

“The Department has incurred expenses to date while investigating this matter in the amount of not less than \$ 1000.00”

Petitioner’s Response: Petitioner has seen no evidence of the expenses that are eligible for reimbursement to the Department.

5) **Petitioner’s Response to Department’s Conclusions of Law:**

Count I:

The Department has concluded that “the facts in Count I constitute a violation of Fla. Admin. Code Rule 62-550.300, which prohibits a public water system from exceeding the maximum contaminant levels established in that Chapter” (page 4, paragraph 16 of the NOV).

Petitioner’s Response: In accordance with Rule 62-550.512 (3) (a), compliance with MCL for nitrate is determined based on the average of the initial and confirmation samples. Also, “for systems that are taking more than one sample per year, compliance is determined by a running annual average of all samples taken at each sampling point. If the running annual average of any sampling point is greater than the maximum contaminant level, then the system is out of compliance {Rule 62-550.500 (7)} (a) F.A.C.}The FDEP did not use the annual running average, which is less than ten, as the criterion for the MCL “violation” but based its decision on a single sampling event. This is inconsistent with the compliance requirements of Department Rule 62-550 (7) (a) F.A.C. for nitrate MCL as referenced above and, therefore, does not constitute a violation of Rule 62-550.300, Florida Administrative Code. Therefore, the proposed administrative (monetary) penalty is not supported by the Department rules.

Count II

Petitioner’s Response: Insofar as Well No. 4 is concerned, the petitioner submits the same response as for Well No. 1 above. The Department used a single sampling event as the basis for its decision as to what constitutes a violation of the rules concerning MCL for nitrate. As with Well No.1, the petitioner took Well No.4 out of service, voluntarily, immediately after receiving the results of the confirmatory sample. A public notice was also issued pursuant to the FDEP rules. Therefore, it is the petitioner’s contention that Colonial Manor Utilities complied with all applicable rules of FDEP in this situation and did not violate any rule. Therefore, the proposed administrative penalty is not supported by the rules.

Count III

Petitioner's Response: Colonial Manor well No. 1 exceeded nitrate MCL in a single sample collected on November 8, 2004. The Petitioner submits the same facts as put forth above for counts I and II, and claims that Colonial Manor is not in violation of nitrate MCL based on this sampling event. Again, the administrative penalty is unjustified and arbitrary.

Count IV

Petitioner's Response: The petitioner disputes the conclusions of law because no modification to the water system has been made with regard to Well No.5 that required a permit and that no water has been introduced to the distribution system from this well. The petitioner did not endanger the health and safety of the water system's customers by introducing water from a well that has not been "approved" by the Department. Therefore, there is no regulatory basis for the proposed administrative penalty.

Count V

Petitioner's Response: The petitioner contends that the petitioner is not liable for the costs incurred by the Department since the purported violations are based on misinterpretation of applicable laws. The petitioner further requests recovery of costs, including attorney fees, to defend the Company from unreasonable and arbitrary interpretations of Florida's laws.

6) Petitioner's Request for Relief:

The petitioner contends that the Colonial Manor Utility Company is in full compliance with Chapter 403 Florida Statutes and the Rules of the Department of Environmental Protection (Chapters 62-550 and 62-555, Florida Administrative Code). Therefore, the petitioner requests the Department of Environmental Protection to withdraw the Notice of Violation or, alternatively, grant the Petitioner a formal administrative hearing, pursuant to Sections 120.569, 120.57 (1) and 403.121 (2), Florida Statutes, to dispute the issues of material fact and the conclusions of law contained in the NOV, and to contest the proposed administrative penalties.

Respectfully Submitted,

Gary Deremer, Owner
Colonial Manor Utility Company
4939 Cross Bayou Boulevard
New Port Richey, FL 34652
Telephone: 727-848-8292
Fax 727-848-7701

Copies of this petition has been delivered by Facsimile and sent by Federal Express (overnight) on August 8, 2006 to:

Office of the General Counsel
State Of Florida
Department of Environmental Protection
3900 Commonwealth Blvd. MS-35
Tallahassee, FL 32399-3000
Attention: Lea Crandall, Agency Clerk

Petition
to
Request A Formal Administrative Hearing

(Sections 120.569, 120.57(1), and 403.121(12) Florida Statutes)

Petitioner (Respondent):

Gary Deremer, Owner
Colonial Manor Utilities
4939 Cross Bayou Blvd.
New Port Richey, FL 34652

Agency Affected (Complainant):

State of Florida
Department of Environmental Protection
Southwest District
13051 N. Telecom Parkway
Temple Terrace, FL 33637-0926

Petition Submitted to:

Office of the General Counsel
State Of Florida
Department of Environmental Protection
3900 Commonwealth Blvd. MS-35
Tallahassee, FL 32399-3000
Attention: Lea Crandall, Agency Clerk

File Number:

OGC File No. 05-2698

Colonial Manor Utility Company
Petition for Admin Hearing

Petition for Formal Administrative Hearing

To: The Office of General Counsel
State of Florida
Department of Environmental Protection
3900 Commonwealth Boulevard, MS-35
Tallahassee, FL 32399-3000

1) The petitioner, Gary Deremer, whose address is 4939 Cross Bayou Boulevard, New Port Richey, FL 34652 (Telephone No. 727-848-8292), is the owner of Colonial Manor Utility Company (Company), a community water system serving approximately 2500 persons (PWS No. 651-0355) located at Colonial Manor Subdivision approximately 1 mile southwest of the City of Elfers and ½ mile east of US Highway 19 in Pasco County, FL.

2) Petitioner hereby files this petition, pursuant to Sections 120.56 and 120.57 Florida Statutes, to dispute the issues of material fact and the related conclusions of law contained in the “ Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment” (“NOV”), dated July 13,2006, signed by J.M. Farley, Interim Director, Department of Environmental protection, Southwest District and received by certified mail, concerning the Company and to request an evidentiary proceeding pursuant to section 28-106.201 Florida Administrative Code. The petitioner is substantially affected by the Department’s proposed “Orders for Corrective Action” since the Proposed Orders for Corrective Action and the proposed administrative penalties materially impose a financial burden on the petitioner and unreasonably increases the costs of operating the Company.

3) The Petitioner became the owner of the water system on January 20, 2004. The water system consists of five drinking water wells with a combined capacity of 353,000 gallons per day.

Even though most of the homes in the subdivision are served by a central water system, sewage disposal is by individual on-site septic tanks. Due to the high density of the on-site sewage disposal systems, the ground water is impacted as nitrates find their way into the drinking water supply wells in varying concentrations. This problem has been documented by the Department and other agencies. Attempts to provide central sewerage system for the affected areas and eliminate the septic tanks have failed due to Pasco County’s unwillingness to undertake the project. The petitioner is diligently seeking a technological solution to the nitrate issue after having failed in attempts to get appropriate authorities to remediate the ground water contamination or to sewer the affected area.

In light of this background, the petitioner offers the following in response to the Department's Notice of Violation of July 13, 2006:

4) Petitioner's Response to Findings of Fact:

Count I:

"Colonial Manor Well No.1 was sampled by Respondent August 29, 2005 for Nitrate. The analysis result was 10.9 milligrams per liter {"mg/l". Respondent took a Nitrate confirmation sample September 1, 2005. The analysis result was 10.3 mg/l."

Petitioner's response: Petitioner does not dispute the analytical results but disputes their sole use in the finding of a violation.

Count II

Colonial Manor Well No.4 was sampled by Respondent August 29,2005 for Nitrate; the analysis was 10.4 mg/l. Respondent took a Nitrate Confirmation sample September 1, 2005; the analysis result was 10.6 mg/l"

Petitioner's response: Petitioner does not dispute the analytical results but disputes their sole use in the finding of a violation.

Count III

"Colonial Manor Well No. 1 was sampled by Respondent November 8, 2004 for Nitrate; the analysis result was 10.6 mg/l"

Petitioner's response: Petitioner does not dispute the analytical results but disputes their sole use in the finding of a violation

Count IV

"Alteration or construction on connecting piping from unapproved well No. 5 to the Colonial Manor distribution occurred on or before December 12, 2005, without a department permit or clearance letter."

Petitioner's Response: Petitioner disputes the Finding as Incorrect, without merit and in disregard to historical facts

Count V

“The Department has incurred expenses to date while investigating this matter in the amount of not less than \$ 1000.00”

Petitioner’s Response: Petitioner has seen no evidence of the expenses that are eligible for reimbursement to the Department.

5) **Petitioner’s Response to Department’s Conclusions of Law:**

Count I:

The Department has concluded that “the facts in Count I constitute a violation of Fla. Admin. Code Rule 62-550.300, which prohibits a public water system from exceeding the maximum contaminant levels established in that Chapter” (page 4, paragraph 16 of the NOV).

Petitioner’s Response: In accordance with Rule 62-550.512 (3) (a), compliance with MCL for nitrate is determined based on the average of the initial and confirmation samples. Also, “for systems that are taking more than one sample per year, compliance is determined by a running annual average of all samples taken at each sampling point. If the running annual average of any sampling point is greater than the maximum contaminant level, then the system is out of compliance {Rule 62-550.500 (7)} (a) F.A.C.} The FDEP did not use the annual running average, which is less than ten, as the criterion for the MCL “violation” but based its decision on a single sampling event. This is inconsistent with the compliance requirements of Department Rule 62-550 (7) (a) F.A.C. for nitrate MCL as referenced above and, therefore, does not constitute a violation of Rule 62-550.300, Florida Administrative Code. Therefore, the proposed administrative (monetary) penalty is not supported by the Department rules.

Count II

Petitioner’s Response: Insofar as Well No. 4 is concerned, the petitioner submits the same response as for Well No. 1 above. The Department used a single sampling event as the basis for its decision as to what constitutes a violation of the rules concerning MCL for nitrate. As with Well No.1, the petitioner took Well No.4 out of service, voluntarily, immediately after receiving the results of the confirmatory sample. A public notice was also issued pursuant to the FDEP rules. Therefore, it is the petitioner’s contention that Colonial Manor Utilities complied with all applicable rules of FDEP in this situation, and did not violate any rule. Therefore, the proposed administrative penalty is not supported by the rules.

Count III

Petitioner's Response: Colonial Manor well No. 1 exceeded nitrate MCL in a single sample collected on November 8, 2004. The Petitioner submits the same facts as put forth above for counts I and II, and claims that Colonial Manor is not in violation of nitrate MCL based on this sampling event. Again, the administrative penalty is unjustified and arbitrary.

Count IV

Petitioner's Response: The petitioner disputes the conclusions of law because no modification to the water system has been made with regard to Well No.5 that required a permit and that no water has been introduced to the distribution system from this well. The petitioner did not endanger the health and safety of the water system's customers by introducing water from a well that has not been "approved" by the Department. Therefore, there is no regulatory basis for the proposed administrative penalty.

Count V

Petitioner's Response: The petitioner contends that the petitioner is not liable for the costs incurred by the Department since the purported violations are based on misinterpretation of applicable laws. The petitioner further requests recovery of costs, including attorney fees, to defend the Company from unreasonable and arbitrary interpretations of Florida's laws.

6) Petitioner's Request for Relief:

The petitioner contends that the Colonial Manor Utility Company is in full compliance with Chapter 403 Florida Statutes and the Rules of the Department of Environmental Protection (Chapters 62-550 and 62-555, Florida Administrative Code). Therefore, the petitioner requests the Department of Environmental Protection to withdraw the Notice of Violation or, alternatively, grant the Petitioner a formal administrative hearing, pursuant to Sections 120.569, 120.57 (1) and 403.121 (2), Florida Statutes, to dispute the issues of material fact and the conclusions of law contained in the NOV, and to contest the proposed administrative penalties.

Respectfully Submitted,

Gary Deremer, Owner
Colonial Manor Utility Company
4939 Cross Bayou Boulevard
New Port Richey, FL 34652
Telephone: 727-848-8292
Fax 727-848-7701

Copies of this petition has been delivered by Facsimile and sent by Federal Express (overnight) on August 8, 2006 to:

Office of the General Counsel
State Of Florida
Department of Environmental Protection
3900 Commonwealth Blvd. MS-35
Tallahassee, FL 32399-3000
Attention: Lea Crandall, Agency Clerk

Petition
to
Request A Formal Administrative Hearing

(Sections 120.569, 120.57(1), and 403.121(12) Florida Statutes)

Petitioner (Respondent):

Gary Deremer, Owner
Colonial Manor Utilities
4939 Cross Bayou Blvd.
New Port Richey, FL 34652

Agency Affected (Complainant):

State of Florida
Department of Environmental Protection
Southwest District
13051 N. Telecom Parkway
Temple Terrace, FL 33637-0926

Petition Submitted to:

Office of the General Counsel
State Of Florida
Department of Environmental Protection
3900 Commonwealth Blvd. MS-35
Tallahassee, FL 32399-3000
Attention: Lea Crandall, Agency Clerk

File Number:

OGC File No. 05-2698

Date:

N.O.V. Dated: Nov. 26, 2006
Received: Dec. 4, 2006

Colonial Manor Utility Company
Petition for Admin Hearing
12/20/06

Petition for Formal Administrative Hearing

To: The Office of General Counsel
State of Florida
Department of Environmental Protection
3900 Commonwealth Boulevard, MS-35
Tallahassee, FL 32399-3000

1) Petitioner, Gary Deremer, whose address is 4939 Cross Bayou Boulevard, New Port Richey, FL 34652 (Telephone No. 727-848-8292), is the owner and operator of Colonial Manor Utility Company (Company), a community water system serving approximately 2500 persons (PWS No. 651-0355) located at Colonial Manor Subdivision approximately 1 mile southwest of the City of Elfers and ½ mile east of US Highway 19 in Pasco County, FL.

2) Petitioner hereby files this petition, pursuant to Sections 120.56 and 120.57 Florida Statutes, to dispute the issues of material fact and the related conclusions of law contained in the "First Amended Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment" ("NOV"), dated Nov. 26, 2006, signed by Deborah A. Getzoff, District Director, Department of Environmental protection, Southwest District and received by certified mail on Dec. 4, 2006, concerning the Company and to request an evidentiary proceeding pursuant to section 28-106.201 Florida Administrative Code. The petitioner is substantially affected by the Department's proposed "Orders for Corrective Action" since the Proposed Orders for Corrective Action and the proposed administrative penalties materially impose a financial burden on the petitioner and unreasonably increases the costs of operating the Company.

3) The Petitioner became owner of water system on January 20, 2004. The water system consists of five drinking water wells with a combined permit capacity of 0.386 million gallons per day.

Even though most of the homes in the subdivision are served by a central water system, sewage disposal is by individual on-site septic tanks. Due to the high density of the on-site sewage disposal systems, the ground water is impacted as nitrates find their way into the drinking water supply wells in varying concentrations. This problem has been documented by the Department and other agencies. Attempts to provide central sewerage system for the affected areas and eliminate the septic tanks have failed due to Pasco County's unwillingness to undertake the project. The petitioner is diligently seeking a technological solution to the nitrate issue after having failed in attempts to get appropriate authorities to remediate the ground water contamination or to sewer the affected area, or to release their franchise to service the area to the petitioner such that the petitioner may provide sewer service to the area.

In light of this background, the petitioner offers the following in response to the Department's Notice of Violation of Nov. 26, 2006:

4) Petitioner's Response to Findings of Fact:

Count I

"Respondent sampled Well No. 2 on October 11, 2006 for nitrate. The analysis result was 12.0 mg/l. Respondent took a nitrate confirmation sample on October 30, 2006. The analysis result was 9.94 mg/l."

Petitioner's response: Petitioner does not dispute the analytical results but does dispute their use in the finding of a violation.

Count II

"Respondent sampled Well No. 1 August 29, 2005 for Nitrate. The analysis result was 10.8 milligrams per liter "mg/l". Respondent took a Nitrate confirmation sample September 1, 2005. The analysis result was 10.3 mg/l."

Petitioner's response: Petitioner does not dispute the analytical results but disputes their use in the finding of a violation.

Count III

"Respondent sampled Well No.4 on August 29, 2005 for Nitrate. The analysis result was 10.4 mg/l. Respondent took a Nitrate Confirmation sample September 1, 2005. The analysis result was 10.6 mg/l"

Petitioner's response: Petitioner does not dispute the analytical results but disputes their use in the finding of a violation.

Count IV

"Respondent sampled Well No. 1 on November 8, 2004 for Nitrate. The analysis result was 10.6 mg/l"

Petitioner's response: Petitioner does not dispute the analytical results but disputes their use in the finding of a violation.

Count V

"Alteration or construction on connecting piping from unapproved well No. 5 to the system distribution occurred on or before December 12, 2005, without a department permit or clearance letter."

Petitioner's Response: Petitioner disputes the Finding as Incorrect, without merit and in disregard to historical facts.

Count VI

“The Department has incurred expenses to date while investigating this matter in the amount of not less than \$2000.00”

Petitioner’s Response: Petitioner has seen no evidence of expenses that are eligible for reimbursement to the Department.

5) Petitioner’s Response to Department’s Conclusions of Law:

Count I:

The Department has concluded that “the facts in Count I constitute a violation of Fla. Admin. Code Rule 62-550.310, which prohibits a public water system from exceeding the maximum contaminant levels established in that Chapter” (page 5, paragraph 26 of the NOV).

Petitioner’s Response: In accordance with Rule 62-550.500, (6) and 62-550.500, (7)(a), compliance with MCL for nitrate is determined based on the average of the initial and confirmation samples. Also, “for systems that are taking more than one sample per year, compliance is determined by a running annual average of all samples taken at each sampling point. If the running annual average of any sampling point is greater than the maximum contaminant level, then the system is out of compliance {Rule 62-550.500, (7) (a) F.A.C.} The FDEP did not use the annual running average as the “measurement of compliance” for the MCL “violation” but based its decision on a single sampling event. This is inconsistent with the compliance requirements of Department Rule 62-550.500, (6) which specifically addresses nitrate and directs the use of Rule 62-550.500, (7)(a) for compliance determination. The running annual average for Well No. 2 (and for the other wells of Colonial Manor) does not exceed the MCL of 10 mg/l and therefore does not constitute a violation of Rule 62-550.300, Florida Administrative Code. Therefore, the proposed administrative (monetary) penalty and NOV is not supported by the Department rules.

Count II

Petitioner’s Response: Insofar as Well No. 1 is concerned, the petitioner submits the same response as for Count I above. The Department used a single sampling event as the basis for its decision as to what constitutes the “measurement of compliance” concerning MCL for nitrate. The petitioner took Well No. 1 out of service, voluntarily, immediately after receiving the results of the confirmatory sample. A public notice was also issued pursuant to the FDEP rules. Therefore, it is the petitioner’s contention that Colonial Manor Utilities complied with all applicable rules of FDEP in this situation and went beyond the requirements of the rules by taking the well out of service and did not violate any rule. The proposed administrative penalty is not supported by the rules.

Count III

Petitioner's Response: Colonial Manor well No. 4 exceeded nitrate MCL in a sample collected on August 29, 2005 and a confirmation sample collected on September 1, 2005. The Petitioner submits the same facts as put forth above for counts I and II, and claims that Colonial Manor is not in violation of nitrate MCL based on this sampling event or the running annual average which did not exceed the MCL. Again, the administrative penalty is unjustified and arbitrary.

Count IV

Petitioner's Response: Colonial Manor well No. 1 exceeded nitrate MCL in a sample collected on Nov. 8, 2004. The Petitioner submits the same facts as put forth above for counts I, II, and III, and claims that Colonial Manor is not in violation of nitrate MCL based on this sampling event or the running annual average which did not exceed the MCL. Again, the administrative penalty is unjustified and arbitrary.

Count V

Petitioner's Response: The petitioner disputes the conclusions of law because no modification to the water system has been made with regard to Well No.5 that required a permit and that no water has been introduced to the distribution system from this well. The petitioner did not endanger the health and safety of the water system's customers by introducing water from a well that has not been "approved" by the Department. The petitioner was at all times in full compliance with 62-555.520, (d) relative to the work being performed; therefore, there is no regulatory basis for the proposed administrative penalty.

Count VI

Petitioner's Response: The petitioner contends that the petitioner is not liable for the costs incurred by the Department since the purported violations are based on misinterpretation of applicable laws. The petitioner further requests recovery of costs, including attorney fees, to defend the Company from unreasonable and arbitrary interpretations of Florida's laws.

6) Petitioner's Request for Relief:

The petitioner contends that the Colonial Manor Utility Company is in full compliance with Chapter 403 Florida Statutes and the Rules of the Department of Environmental Protection (Chapters 62-550 and 62-555, Florida Administrative Code). Therefore, the petitioner requests the Department of Environmental Protection to withdraw the Notice of Violation or, alternatively, grant the Petitioner a formal administrative hearing, pursuant to Sections 120.569, 120.57 (1) and 403.121 (2), Florida Statutes, to dispute the issues of material fact and the conclusions of law contained in the NOV, and to contest the proposed administrative penalties.

Respectfully Submitted,

Gary Deremer, Owner
Colonial Manor Utility Company
4939 Cross Bayou Boulevard
New Port Richey, FL 34652
Telephone: 727-848-8292
Fax 727-848-7701

Copies of this petition has been delivered by Facsimile and sent by Federal Express (overnight) on December 20, 2006 to:

Office of the General Counsel
State Of Florida
Department of Environmental Protection
3900 Commonwealth Blvd. MS-35
Tallahassee, FL 32399-3000
Attention: Lea Crandall, Agency Clerk



**COLONIAL MANOR WATER SYSTEM
PERMIT APPLICATION TO CONSTRUCT A
NITRATE REMOVAL SYSTEM**

The following is a summary of the compliance and permitting status of the water treatment systems for the Colonial Manor Water System.

9-13-2006

The permit application package was sent to FDEP for the nitrate removal system at Wells 1 & 4.

9-29-2006

Request for additional information letter No. 1 (RAI #1) was received from FDEP.

11-3-06

Request for a time extension to respond to RAI #1 was sent to FDEP.

11-6-06

The requested time extension was granted by FDEP.

11-30-06

Response to RAI #1 was sent to FDEP.

12-18-07 06

Meeting with FDEP to discuss a proposed treatment system for all of the wells.

12-20-07 06

Request additional information (RAI #2) for nitrate removal system at wells 1 & 4 was received.

1-5-07

Request for withdrawal of permit application was sent to FDEP (Wells 1 & 4).

1-5-07

Sent permit application package for the centralized nitrate removal system for all wells.

1-9-07

FDEP approved withdrawal of the permit application for the nitrate removal system at Wells 1 & 4.

1-24-07

Request for additional information letter (RAI #1) received from FDEP for the centralized system.

2-28-07

Response to RAI #1 sent to FDEP for the centralized nitrate removal system (all wells).



INVOICE 125650

CUSTOMER NO. USWATER

FLOYD S. SALSER JR. & ASSOC. INC.

DBA MARS COMPANY
P.O. BOX 772887
OCALA, FL 34477-2887
(352) 694-7195
(352) 694-7397 FAX
FEDERAL ID# 59-2879074

BILL TO: US WATER SERVICES
4939 CROSS BAYOU BLVD
NEW PORT RICHEY, FL 34652

SHIP TO: US WATER SERVICES
4939 CROSS BAYOU BLVD
NEW PORT RICHEY, FL 34652

Date	Ship Via	F.O.B.		Terms		
10/08/04	BEST WAY	Origin		Net 30		
PURCHASE ORDER NUMBER	ORDER DATE	SALES PERSON		PO# ORDER NUMBER		
SALINA/REPAIR	10/07/04	HOUSE 1		13494		
QUANTITY						
REQUIRED	SHIPPED	U.O.	ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT

1	1		986045WH	METER BENCH TEST SERVICE	50.0000	50.00
				RGA 81904-1 SN 31450137		

Invoice subtotal 50.00

Invoice total 50.00

MARS CO. IS NOW ACCEPTING VISA/MASTERCARD

FLOYD S.SALSER JR.& ASSOC.INC.
 DBA MARS COMPANY
 P.O. BOX 772887
 OCALA, FL 34477-2887
 (352) 694-7195
 (352) 694-7397 FAX #

Statement of Account

US WATER SERVICES
 4939 CROSS BAYOU BLVD
 NEW PORT RICHEY, FL 34652

STATEMENT DATE
12/31/04
ACCOUNT NO.
USWATER

DATE	INVOICE	DESCRIPTION	CHARGES	CREDITS	AMOUNT DUE	BALANCE
10/08/04	125650	TEST METER	50.00	0.00	50.00	50.00

Clyde - Any ideas?

Vickie - this was Salinas - I will forward to Mary to All if Paid by Utilities. See

RD
CP #1139
12/24/05
W/E

Current	1 to 30	31 to 60	61 to 90	Over 90	TOTAL	50.00
0.00	0.00	50.00	0.00	0.00		

Revenue Schedule at Present and Proposed Rates

Florida Public Service Commission

Company: Colonial Manor Utility Co.
 Docket No.: 060540-WU
 Test Year Ended: December 31, 2007
 Water [x] or Wastewater []

Schedule: E-2 (revision 2)
 Page 1 of 1
 Preparer: Joseph G. Gabay

Explanation: Provide a calculation of revenues at present and proposed rates using the billing analysis. Explain any differences between these revenues and booked revenues. If a rate change occurred during the test year, a revenue calculation must be made for each period.

(1) Class/Meter Size	(2) Number Bills	(3) Consumption in MG	(4) Present Rate	(5) Revenues at Present Rates	(6) Proposed Rate	(7) Revenues at Proposed Rates
Residential						
5/8" M Gallons	7,625		8.02	61,153	17.48	133,312
5/8" M Gallons (over 10K)	639	28,538	2.12	60,501	4.62	131,891
1" Etc. M Gallons Etc.		10,092	8.02	5,125	17.48	11,172
			2.65	26,744	5.78	58,301
Total Residential	8,264	38,630		153,522		334,677
Average Bill	18.58			40.50		
General Service						
5/8" M Gallons	94		8.02	754	17.48	1,643
1" Etc. M Gallons Etc.	25	273	2.19	598	4.77	1,303
1.5" M Gallons	24	323	20.06	502	43.73	1,093
		573	2.19	707	4.77	1,542
			40.11	963	87.44	2,099
			2.19	1,255	4.77	2,736
Total Gen. Serv.	143	1,169		4,778		10,416
Average Bill	33.41			72.84		
List Other Classes As Above						
Totals	8,407	39,799		158,300		345,093
Unbilled Revenues						
Other Revenue				9,316		3,842
Misc. Serv. Charges						
Total Revenue				167,616		348,935
Booked Revenue				165,830		
Difference (Explain)				-1,786		
Miscellaneous charges / credits						

Gallons of Water Pumped, Sold and Unaccounted For
In Thousands of Gallons

Florida Public Service Commission

Company: Colonial Manor Utility Co.
Docket No.: 060540-WU
Test Year Ended: December 31, 2005

Schedule F-1
Page 1 of 1
Preparer: Joseph G. Gabay

Explanation: Provide a schedule of gallons of water pumped, sold and unaccounted for each month of the test year. The gallons pumped should match the flows shown on the monthly operating reports sent to DEP. The other uses may include plant use, flushing of hydrants and water & wastewater lines, line breakages and fire flow. Provide all calculations to substantiate the other uses. If unaccounted for water is greater than 10%, provide an explanation as to the reasons why; if less than 10%, then Columns 4 & 5 may be omitted.

Month/ Year	(1) Total Gallons Pumped	(2) Gallons Purchased	(3) Gallons Sold	(4) Other Uses	(5) Unaccounted For Water (1)+(2)-(3)-(4)	(6) % Unaccounted For Water
1/05	3,361,900	0	3,876,000	33,619	-547,719	-16.13%
2/05	3,260,500	0	2,926,000	32,605	301,895	9.17%
3/05	3,494,000	0	3,232,000	34,940	227,060	6.43%
4/05	3,837,000	0	3,931,000	38,370	-132,370	-3.42%
5/05	3,922,000	0	3,248,000	39,220	634,780	16.02%
6/05	3,304,000	0	4,208,000	33,040	-937,040	-28.08%
7/05	3,318,000	0	2,787,000	33,180	497,820	14.86%
8/05	3,242,000	0	3,029,000	32,420	180,580	5.51%
9/05	3,393,000	0	3,707,000	33,930	-347,930	-10.15%
10/05	3,345,500	0	2,957,000	33,455	355,045	10.51%
11/05	3,192,000	0	3,013,000	31,920	147,080	4.56%
12/05	2,873,000	0	2,885,000	28,730	-40,730	-1.40%
Total	40,542,900	0	39,799,000	405,429	338,471	0.83%

Mr. Bart Fletcher
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

**Re: Docket No. 060540-WU – Application for increase in water rates in Pasco
County by Colonial Manor Utility Company.**

13.

Please see invoice copies enclosed.

The owner of the Utility has decided not to charge for his time involved with the rate case.


Additionally, staff engineering time related to the capital improvement plan has been reviewed by the auditor and moved from professional fees to construction work in progress.

The invoice relating to accounting fees to date is included.

US Water is not anticipating charging for any additional time on the rate case.

If you require additional information, please let me know.

Sincerely,



Joseph G. Gabay

Accounting Services Manager

Cc: Mr. Gary Deremer, President



4939 Cross Bayou Boulevard
New Port Richey, FL 34652

Invoice

Bill To
Colonial Manor Utility System Gary Deremer P.O. Box 398 New Port Richey, FL 34652

Date	Invoice #
6/30/2007	707603

Account #
1002

Due Date
7/30/2007

P.O. Number	Terms	Project
	Net 30	1002-3.14 Admin Rate Case Services

Item	Service D...	Description	Qty or Hours	Unit	Rate	Amount
601.03	6/30/2007	Colonial Manor Utility System: Administrative Services, File and Suspend Rate Case Filing, Requests for Additional Information, Administrative Support to Owner. Joseph Gabay, CPA - Accounting and Case Filing Manager: Services provided 08/15/06 through 06/30/07: File and Suspend Rate Case Preparation and Filing; response to additional information 03/07 and 04/07; auditor review support at in-house location and misc related services.	140	hr	92.07	12,889.80

Please remit to the above address and thank you for allowing us to be of service.	Invoice #	Total	\$12,889.80
	707603		

4939 Cross Bayou Boulevard
New Port Richey, Florida 34652

Telephone
727-848-8292
Fax
727-848-7701

Account #	Payments/Credits	\$0.00
1002	Balance Due	\$12,889.80