

**Diamond Williams**

100085-WU

**From:** BarDavJenng [bjenndjenn@earthlink.net]  
**Sent:** Monday, June 28, 2010 6:43 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket 100085-WU Customer response to Legal Notice for Black Bear Reserve Water Company Application for Certificate  
**Attachments:** Response to PSC reBBRWCpermitapplicationFinal.docx

Attached for filing, is our customer response to the legal notice received from Black Bear Reserve Water Company, Inc. regarding its application for original certificate (Docket 100085-WU).

For questions please call: 352-357-9161

Thank you,

Barbara Jennings

6/29/2010

DOCUMENT NUMBER DATE

05327 JUN 29 2010

FPSC-DOCKETS DIVISION

E-FILING

Date: June 28, 2010  
From: David and Barbara Jennings  
To: Ann Cole, Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

RE: Docket No. 100085-WU: Black Bear Reserve Water Company, Inc.'s Application for Certificate to operate Water Utility in Lake County, Florida

Dear Ms. Cole:

Enclosed for filing in the above-referenced docket is, as a water company customer, our objections to the Black Bear Reserve Water Company, Inc.'s application for a certificate to operate a water utility in Lake County Florida.

Should you or the Staff have any questions regarding this filing, please do not hesitate to give us a call at 352-357-9161

Very truly yours,

s/ Barbara L. Jennings

Enclosures

Cc: Black Bear Reserve Water Company, P.O. Box 440, Eustis, FL (w/enclosures) via certified return receipt mail

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05327 JUN 29 2010  
FPSC-COMMISSION CLERK

**Request permit be DENIED at this time.**

Our recommendation of denial is based on two very important business operation issues that currently exist and cause us great concern. Each of these issues should be of great concern to all Black Bear Reserve Water Company (BBRWC) customers. Each issue, identified below, has been in existence since the Black Bear Reserve HOA (BBRHOA) took over operation of the water company late last year. Each issue has the potential of being the subject of one or more civil actions, each of which could be lengthy, costly, and not resolved anytime soon. And, after resolution of these issues, would the BBRHOA operated water company still be in operation?

***Issue One:*** *The Current Black Bear Reserve Water Company appears to be without a legitimate supply of water to provide to its customers.*

***Issue Two:*** *The existence of a very large mortgage Black Bear Reserve Water Company is currently not acknowledging.*

**About Issue One:**

***The Current Black Bear Reserve Water Company (BBRWC) appears to be without a legitimate supply of water to provide to its customers.*** The possibility of civil action is of great concern to us, and should be to all BBRWC customers. The current management team has been in place for over 6 months and nothing has changed in recorded documents. The holder of the Consumptive Use Permit (CUP) 2959, issued by St Johns River Water Management District (SJRWMD) continues to be Rapid Retrieval, Inc (General partner of Upson Downs LP, a Colorado Corporation). The only other possibility we can think of that could give BBRWC legitimate access to water would be something on the order of a contract giving BBRWC access to and use of the water permitted by the existing CUP permit. A civil case has been filed with the Lake County Clerk of Courts, where BBRWC is the plaintiff, and Mark Carson, Lee Ann Carson, Ashley Carson, and Chalcopyrite are the defendants. This case remains open as of this date. Included in this civil case filing is the following statement: "Re: Notice of Default & Termination of Agreement for Operation of Water Plant". Chalcopyrite is identified as the previous BBRWC operator. As this case remains in open status, we interpret that to mean, issues brought forth in this filing have not all been resolved. We feel that BBRWC should, in order to operate a water utility, have legitimate access to its primary commodity – WATER. The last thing that BBRWC customers need is to have the water company end up without this legitimate access to water, run up excessive legal debt, or anything else that in the end would impact the availability, quality, or cost of the WATER, upon which 300+ customers rely.

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FPSC-COMMUNICATIONS

**About Issue Two:**

The existence of a very large mortgage assigned to Black Bear Reserve Water Company that is currently being ignored, i.e. no payments are being made. We are concerned about the potential liability to water company customers if BBRWC continues to ignore this mortgage. It is a large, negative amortization, mortgage, beginning at near \$1,000,000 around the beginning of the year 2000. We believe the current unpaid balance of this mortgage to be over \$3,000,000. And, its payoff amount continues to grow every day. Is a mortgage foreclosure a possibility? Maybe a civil suit centered around this mortgage will be filed. If so, there is the possibility that BBRWC could end up with a huge debt. How would this affect BBRWC customer's water costs, BBRWC's ability to stay in business? Again, our feeling is that the existence of this mortgage, as documented in the Lake County Clerk of Courts public records database, is cause enough to deny this permit request until the validity of this mortgage is determined by the courts and/or the parties involved.

**In summary:**

It appears that the BBRHOA managed BBRWC currently has no legitimate source of water to provide its customers (per the CUP permit). Should PSC be considering this application at this time? It seems to us that the application process should only begin when the utility, BBRWC in this case, has a legitimate source of the resource required. In this case, water is that required resource. If this is true, without a legitimate source of water, is BBRWC a utility? It also seems to us that the financial position of BBRWC should not be clouded by unknowns i.e. the validity of a large mortgage leading to a possible huge debt or foreclosure.