

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: August 19, 2014

TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk

FROM: Daniel Q. Lee, Engineering Specialist IV, Division of Engineering *DJ*

RE: Docket No. 140038-SU - Application for transfer of majority organizational control of Crooked Lake Park Sewerage Co. in Polk County, and for name change on Certificate No. 517-S to Glenbrook Properties, LLC, a Florida limited liability company. *PV*

Please incorporate the attached document into the docket file referenced above.

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

v.

CASE NO.: 2006-CA-2084

CROOKED LAKE PARK SEWERAGE
COMPANY,


Defendant.

SATISFACTION OF JUDGMENT AND NOTICE OF WITHDRAWAL OF MOTION FOR
CONTEMPT

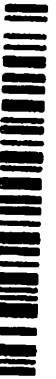
Plaintiff, Florida Department of Environmental Protection ("Department"), does hereby represent that this Court entered a Final Judgment ("Judgment") in the above captioned matter, dated July 9, 2008. A certified copy of the Judgment was recorded in Polk County, Official Records Book 7706 beginning at Page 9. The Department acknowledges the Judgment has been paid in full and satisfied. The Department consents that the Judgment be satisfied of record. Furthermore, the Department withdraws with prejudice any and all outstanding motions for contempt that have been filed in this case.

DATED 15th day of July, 2014.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


Matthew Smith-Kennedy
Senior Assistant General Counsel
Florida Bar No. 737054
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399
Telephone: (850) 245-2250
Facsimile: (850) 245-2301

INSTR # 2014124144
BK 9296 Pgs 146-1467 PG(S) 2
RECORDED 07/21/2014 09:19:40 AM
STACY M. BUTTERFIELD,
CLERK OF COURT POLK COUNTY
RECORDING FEES \$10.50
RECORDED BY ambezien



BT

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 15th day of July, 2014 by Matthew Smith-Kennedy as Sr. Assistant General Counsel for the Florida Department of Environmental Protection.



Karen B. Tyre
Notary Public, State of Florida

Printed KAREN B. TYRE

Commission No.: EE 163465

My commission expires: 1/27/16

Personally known X OR produced identification _____
Type of identification produced _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Craig Hill by email at cbhill@chill-law.com on this 15th day of July, 2014.

[Signature]
Matthew Smith-Kennedy
Sr. Assistant General Counsel

Daniel Lee

From: Caroline Klancke
Sent: Tuesday, June 03, 2014 9:04 AM
To: Daniel Lee
Subject: FW: Docket No. 140038-SU - Notice of Additional Deficiencies & Information
Attachments: Letter from PSC 052114.pdf; Settlement Agreement Crooked Lake (Fully-Executed 052714).pdf; Final Judgment.pdf

Attached is the settlement agreement between Crooked Lake and DEP. The utility is also going to file it in conjunction with their response to our additional deficiencies letter. As noted below, it resolves all remaining issues between DEP and the utility.

From: Craig Hill [mailto:cbhill@chill-law.com]
Sent: Wednesday, May 28, 2014 5:59 PM
To: Caroline Klancke
Subject: RE: Docket No. 140038-SU - Notice of Additional Deficiencies & Information

Caroline:

Good evening.

Thanks for your message regarding the notice. I will share it with my client so that the notice can be issued as soon as possible.

Also, my client is in receipt of the attached 5/21/14 letter from the Public Service Commission. I believe that this is unrelated to the application that we are working on with you. But, I still wanted to bring it your attention in order to be sure that we are all on the same page. I note the mention of the Consent Order with DEP for 2013. Attached is a copy of the fully-executed Settlement Agreement with the DEP. I will also provide you a copy when I send my more formal response to your 5/27 letter. However, I wanted to go ahead and send a copy at this point. The Settlement Agreement releases Crooked Lake Park Sewerage Company and concludes any and all outstanding matters with the DEP including as to the Final Judgment (a copy of which is attached hereto), which Final Judgment came about in light of an earlier Consent Order as referenced therein. In short, the Settlement Agreement (and the notices to be filed in connection therewith) will completely release Crooked Lake Park Sewerage Company from any and all claims arising from the Judgment and the subject lawsuit. I just wanted to bring this to your attention with respect to the attached 5/21/14 letter and any necessary response thereto. Upon your review, please let me know if you have any questions or comments.

Thanks,
Craig

Craig B. Hill, Esquire
Law Office of Craig B. Hill, P.L.
625 East Lime Street, Suite 5
Lakeland, FL 33801
phone 863.937.9381
fax 863.937.9382
mobile 863.838.7425
e-mail: cbhill@chill-law.com
www.chill-law.com

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT,
IN AND FOR POLK COUNTY, FLORIDA**

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

CASE NO. 06 CA 2084

v.

CROOKED LAKE PARK SEWERAGE COMPANY

Defendant.

SETTLEMENT AGREEMENT

Plaintiff, STATE OF FLORIDA, DEPARTMENT OF ENVIRONMENTAL PROTECTION ("Department"), and CROOKED LAKE PARK SEWERAGE COMPANY ("Defendant" or "Defendant Company") agree to the following terms to settle the above styled case, including without limitation, with respect to civil penalties and costs owed to the Department pursuant to a judgment entered on July 9, 2008:

1. A Final Judgment was entered in favor of the Department on July 9, 2008 by the court (the "Judgment"). A certified copy of the Judgment was recorded in Official Records Book 7706, Page 9, Public Records of Polk County, Florida. The Judgment awarded \$128,300.00 in civil penalties and costs to the Department. Interest has accrued at the rate set by statute.
2. Additional civil penalties (in the amount of \$309,200.00) were conditionally assessed by the Judgment if the corrective actions (in the form of injunctive relief) were not completed on time by the Defendant. The corrective actions contained in the Judgment were not completed on time, however, the Department never sought a further order from the court to adjudicate the

additional civil penalty amount of \$309,200.00. This amount is hereafter referred to as the Conditional Civil Penalties.

3. Subsequent to a contempt proceeding initiated by the Department, equity ownership and control of the Defendant changed to a new party or parties. Under new management, the Defendant Company undertook compliance with Department Rules and the terms of the Judgment. Also, the Defendant Company is undertaking further compliance improvements which necessitate financing. The Judgment represents a possible impediment to further compliance with environmental health and regulations under the new management of the Defendant Company.
4. In recognition of the factors listed in paragraph 3 above, the Department agrees to release Defendant from all further civil penalties, costs, and accrued interest currently awarded. exchange for \$50,000.00 from the Defendant, prior to the filing of Notice of Satisfaction of the Final Judgment by the Department. Following execution of this agreement, the Defendant shall pay to the Department \$50,000.00 within 30 days of the date that this agreement is signed by the Department. The company check, money order, or official bank check shall be made payable to the "Department of Environmental Protection" and shall include thereon the OGC number assigned to this case (03-1878) and the notation "Ecosystem Management and Restoration Trust Fund". The payment shall be sent to The Florida Department of Environmental Protection at 13051 N Telecom Parkway, Temple Terrace, FL 33637.
5. Both Department and Defendant shall each bear their own costs and attorney fees for any expenditures incurred in reaching this agreement.

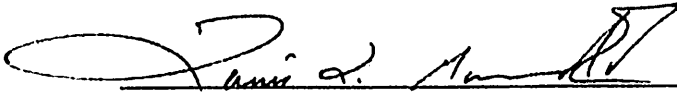
6. Within 15 days of confirming the settlement of the instrument of payment from the Defendant to the Department, the Department shall file a Notice of Satisfaction of Judgment and a Notice of Withdrawal of the pending Motion For Contempt (with prejudice). These notices will completely release the Defendant from all current and future claims of civil penalties, Conditional Civil Penalties, costs, accrued interest, attorney fees, or other monetary claims arising from the Judgment and the above-styled case. The Department will provide the Defendant with an original executed Notice of Satisfaction upon filing the document in the public records of Polk County.

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Signatures indicating agreement of the parties:

Louis F. Garrard, V

(Printed) For the Defendant



(signature) For the Defendant

Date: 5/12/14

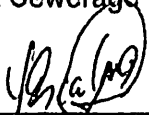
President

Title of Officer Signing for the Defendant

Notarization of signature:

STATE OF FLORIDA
COUNTY OF POLK

Sworn to or affirmed and subscribed before me this 12th day of
May, 2014, by Louis F. Garrard, V, as President of Crooked
Lake Park Sewerage Company.

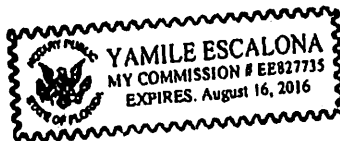


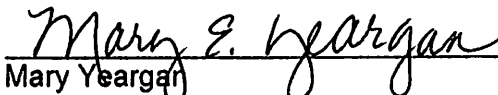
Notary Public State of Florida
Printed name: Yamile Escalona

Personally Known OR Produced Identification

Type of Identification

Produced _____





Mary Yeargan
Southwest District Director
For the Department

Date: 5/27/14

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

FILED - CIVIL
POLK COUNTY CLERK
CIRCUIT COURT CIVIL
2008 JUL 14 A 10:53

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Plaintiff,

vs.

CASE No.: 2006 CA-2084

CROOKED LAKE PARK SEWERAGE
COMPANY,

Defendant.

FINAL JUDGMENT

THIS CAUSE came before the Court on the Plaintiff's (State of Florida Department of Environmental Protection's) Motion for Entry of Final Judgment Assessing Civil Penalties, Costs, and Injunctive Relief Against Defendant (Crooked Lake Park Sewerage Company). Having heard testimony and been otherwise advised of its premises, this Court finds:

1. Plaintiff State of Florida Department of Environmental Protection ("Department") is the administrative agency of the State of Florida, created by Section 20.255, Florida Statutes, which is authorized to enforce the environmental laws of the State of Florida, including Chapter 403, Florida Statutes, and the rules promulgated thereunder in Title 62 Florida Administrative Code. The Department is headquartered at 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and its Southwest District Office is located at 13051 North Telecom Parkway, Temple Terrace, Florida, 33637.

2. Defendant Crooked Lake Park Sewerage Company ("Defendant") is a Florida corporation who owns and operates a wastewater treatment plant that treats the sewage collected in the Crooked Lake Park Subdivision, Caloosa Lake Village Subdivision, and College Park

DEPT. ENVIRONMENTAL PROTECTION
3900 COMMONWEALTH BLVD.
TALLAHASSEE, FL 32399-3000

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CERTIFICATION ON LAST PAGE
RICHARD M. WEISS, CLERK OF COURTS

Mobile Home Park in Lake Wales, Florida. Defendant's principal address is: 227 Caloosa Lake Circle North, Lake Wales, Florida 33859.

3. On May 30, 2006, the Department filed a Complaint and Petition to Enforce ("Complaint and Petition") with this Court, which was served on Defendant on June 6, 2006. Count I was a petition to enforce a Consent Order executed on January 16, 2004. The remaining counts (i.e., counts II-VI) addressed additional violations of various environmental rules and statutes that Defendant committed after the Consent Order was executed.

4. Following the October 8, 2007 hearing, this Court entered an Order Granting Plaintiff's Motion for Summary Judgment, which adjudicated Defendant's liability as to all counts in the Department's Complaint and Petition.

5. To date, Defendant has failed to comply with the Consent Order executed on January 16, 2004 ("Consent Order") and redress the additional violations alleged in the Department's Complaint and Petition.

6. Section 403.141(1), Florida Statutes, allows the Court to impose civil penalties of not more than \$10,000.00 per day per violation. The Court's imposition of civil penalties shall "be of such amount as to ensure immediate and continued compliance" with Florida's environmental laws. *See* § 403.161(6), Fla. Stat.

7. Section 403.131, Florida Statutes, authorizes the Court to impose injunctive relief to enforce compliance with "any rule, regulation, permit certification, or order."

8. Because Defendant willfully violated Florida's environmental laws, the award of both civil penalties and injunctive relief is justified in this case.

IT IS ADJUDGED that:

A. As a result of Defendant's failure to comply with the Consent Order as alleged in

Count I of the Department's Complaint and Petition, Defendant must do the following:

1. Within 90 days of the effective date of this Final Judgment, Defendant shall submit a complete permit application ("CT Application") with appropriate processing fees to construct a sanitary collection/transmission system to divert flow from Defendant's wastewater treatment facility located at 227 Caloosa Lake Circle North, Lake Wales, Polk County, Florida, Parcel ID No.: 273035000000011050 ("Facility") to the City of Lake Wales's Sam P. Robinson Water Reclamation Facility. The CT Application shall be prepared and sealed by a professional engineer registered in the State of Florida. Within 30 days of a written request from the Department for additional information to complete the CT Application, Defendant shall submit the requested information to the Department. Within 120 days of permit issuance, Defendant shall commence construction of the sanitary collection/transmission system pursuant to the conditions of the permit ("CT Permit"). On or before April 27, 2009, Defendant shall complete the construction of the sanitary collection/transmission line and shall submit to the Department a notification of completion of construction for the sanitary collection/transmission system signed and sealed by a professional engineer registered in the State of Florida. Within five days of receipt of written approval by the Department, Defendant shall place the sanitary collection/transmission line into service.

2. During the interim period prior to taking the Facility off-line, Defendant shall maintain both percolation ponds by continuing to haul sewage or effluent in order to maintain at least one foot of freeboard in both percolation ponds. Defendant shall continue to make necessary infiltration and inflow repairs to the sewage collection/transmission system to lessen the effluent discharge from its percolation ponds.

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

4. In any event, by August 25, 2009, the Facility shall be off-line or in complete compliance with all Department rules and regulations that are the subject of this Final Judgment.

5. In the event subsections A1. through A4. of this Final Judgment are not complied with, the Defendant shall pay the Department stipulated penalties in the amount of \$200.00 for each and every day Defendant failed to comply with the Consent Order, for a total of \$309,200.00 for which let execution issue.

B. As a result of the additional violations alleged in Counts II-VI in the Complaint and Petition to Enforce, judgment is entered in favor of Plaintiff State of Florida Department of Environmental Protection (3900 Commonwealth Blvd., Tallahassee, FL 32399) and against Defendant Crooked Lake Park Sewerage Company (227 Caloosa Lake Circle North, Lake

Wales, Florida 33859) in the amount of \$128,300.00 for which let execution issue. The \$128,300.00 consists of \$126,300.00 in civil penalties and \$2,000.00 in investigative costs. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of Environmental Protection" and shall include the notations "Ecosystem Management and Restoration Trust Fund" and "OGC # 03-1878" thereon. Payment shall be sent to the State of Florida Department of Environmental Protection, Southwest District, 13051 North Telecom Parkway, Temple Terrace, Florida, 33637. If Defendant complies with subsections A1. through A4. of this Final Judgment, the civil penalty of \$126,300.00 will be suspended.

C. Petitioning for relief under the federal bankruptcy code or the transfer of the Property by any means or for any reason shall not affect or be construed to affect Defendant's obligations under this Final Judgment.

D. 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 Final Judgment have not been fully satisfied, Defendant 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 Final Judgment to the new owner. The sale or conveyance of the Facility, or the Property upon which the Facility is located shall not relieve Respondent of the obligations imposed in this Final Judgment.

E. The Department is hereby granted site access to the property located at 227 Caloosa Lake Circle North, Lake Wales, Polk County, Florida (Parcel ID No.: 27303500000011050) for the purpose of allowing the Department or its agents to verify compliance with the terms of this Final Judgment.

F. It is further ordered and adjudged that the judgment debtor, Crooked Lake Park Sewerage Company, shall complete under oath Florida Rule of Civil Procedure Form 1.977 (Fact Information Sheet), including all required attachments, and serve it on the Department's attorney within 45 days from the date of this Final Judgment, unless the Final Judgment is satisfied or post-judgment discovery is stayed. A copy of form 1.977 is attached hereto as Attachment 1. Upon serving the completed forms, the Defendant shall file with the clerk of court a notice of compliance with the order to complete form 1.977, and serve a copy of the notice of compliance on the Department's attorney.

G. Jurisdiction of this case is retained to enter further orders that are proper to compel the judgment debtor, Crooked Lake Park Sewerage Company, to complete form 1.977, including all required attachments, and serve it on the Department's attorney.

H. Additionally, this Court shall retain jurisdiction to enforce this Final Judgment by contempt or other appropriate sanctions.

ORDERED at chambers in Bartow, Polk County, Florida, this 9 day of July 2008.


CIRCUIT JUDGE

cc: Chadwick R. Stevens, Esq.
James C. McClendon, II, Esq.

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CERTIFICATION ON LAST PAGE
RICHARD H. WELLS, CLERK OF COURTS

IN THE CIRCUIT COURT OF THE NINETEENTH CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Plaintiff,

vs.

CASE No.: 2006 CA-2084

CROOKED LAKE PARK SEWERAGE
COMPANY,

Defendant.

_____ /

FACT INFORMATION SHEET OF DEFENDANT
CROOKED LAKE PARK SEWERAGE COMPANY

Name of entity:

Name and title of person filling out this form:

Telephone number:

Place of business:

Mailing address (if different):

Gross/taxable income reported for federal income tax purposes last three years:

\$ _____ / \$ _____

\$ _____ / \$ _____

\$ _____ / \$ _____

ATTACHMENT 1

1

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RICHARD M. WEISS, CLERK OF COURTS

Taxpayer identification number:

Is this entity an S corporation for federal income tax purposes? ___ Yes ___ No

Average number of employees per month _____

Name of each shareholder, member, or partner owning 5% or more of the entity's common stock, preferred stock, or other equity interest:

Names of officers, directors, members, or partners:

Checking account at: _____

Account # _____

Savings account at: _____

Account # _____

Checking account at: _____

Account # _____

Savings account at: _____

Account # _____

Does the entity own any vehicles? Yes No

For each vehicle please state:

Year/Make/Model: _____ Color: _____

Vehicle ID No: _____ Tag No: _____ Mileage: _____

Names on Title: _____ Present Value: \$ _____

Loan Owed to:

Balance on Loan: \$ _____

Monthly Payment: \$ _____

Does the entity own any vehicles? Yes No

For each vehicle please state:

Year/Make/Model: _____ Color: _____

Vehicle ID No: _____ Tag No: _____ Mileage: _____

Names on Title: _____ Present Value: \$ _____

Loan Owed to:

Balance on Loan: \$ _____

Monthly Payment: \$ _____

Does the entity own any real property? Yes No

If yes, please state the address(es):

Please check if the entity owns the following:

- Boat
- Camper
- Stocks/bonds
- Other real property
- Other personal property

Please attach copies of the following:

1. Copies of state and federal income tax returns for the past 3 years.
2. All bank, savings and loan, and other account books and statements for accounts in institutions in which the entity had any legal or equitable interest for the past 3 years.
3. All canceled checks for the 12 months immediately preceding the service date of this Fact Information Sheet for accounts in which the entity held any legal or equitable interest.
4. All deeds, leases, mortgages, or other written instruments evidencing any interest in or ownership of real property at any time within the 12 months immediately preceding the date this lawsuit was filed.
5. Bills of sale or other written evidence of the gift, sale, purchase, or other transfer of any personal or real property to or from the entity within the 12 months immediately preceding the date this lawsuit was filed.
6. Motor vehicle or vessel documents, including titles and registrations relating to any motor vehicles or vessels owned by the entity alone or with others.

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CERTIFICATION ON LAST PAGE
RICHARD M. WEISS, CLERK OF COURTS

ATTACHMENT 1

4

7. Financial statements as to the entity's assets, liabilities, and owner's equity prepared within the 12 months immediately preceding the service date of this Fact Information Sheet.

8. Minutes of all meetings of the entity's members, partners, shareholders, or board of directors held within 2 years of the service date of this Fact Information Sheet.

9. Resolutions of the entity's members, partners, shareholders, or board of directors passed within 2 years of the service date of this Fact Information Sheet.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM THAT THE FOREGOING ANSWERS ARE TRUE AND COMPLETE.

(signature)

Judgment Debtor's Designated Representative/Title: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me on _____,
by _____, who is personally known to me or has
produced _____ as identification and who
(circle one) did / did not take an oath.

WITNESS my hand and official seal, this _____ day of _____,
2008.

Notary Public
State of Florida

My Commission expires: _____

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RICHARD M. WEISS CLERK OF COURTS

THE JUDGMENT DEBTOR SHALL FILE WITH THE CLERK OF THE COURT A NOTICE OF COMPLIANCE AFTER THE ORIGINAL FACT INFORMATION SHEET, TOGETHER WITH ALL ATTACHMENTS, HAS BEEN DELIVERED TO THE JUDGMENT CREDITOR'S ATTORNEY, OR TO THE JUDGMENT CREDITOR IF THE JUDGMENT CREDITOR IS NOT REPRESENTED BY AN ATTORNEY.



STATE OF FLORIDA, COUNTY OF POLK
This is to certify that the foregoing is a true
and correct copy of the document now of
record in this office. Witness my hand and
Official Seal on 8/26/08
 This copy has no redactions.
 This copy has been redacted pursuant to law
RICHARD M. WEISS, CLERK-CIRCUIT COURT
BY Paula Craig D.C.

ATTACHMENT 1

6

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

Case No. 2006-CA-2085

vs.

CROOKED LAKE PARK SEWERAGE
COMPANY,

Defendant.

PLAINTIFF'S SECOND MOTION FOR CONTEMPT

Plaintiff, State of Florida Department of Environmental Protection, pursuant to Rule 1.570, Florida Rules of Civil Procedure, moves this court to enter an order of civil contempt against Defendant, Crooked Lake Park Sewerage Company, for failing to comply with the requirements of the Final Judgment. As grounds, the Department states:

1. This Court entered a Final Judgment in this matter on July 9, 2008. A copy of this Judgment is attached herein as Exhibit 1.
2. This is Department's second Motion for Contempt. On February 3, 2009, the Department filed its first Motion for Contempt for Defendant's failure to comply with the requirements of the Final Judgment.
3. Defendant failed to comply with the Court's first Order on Contempt, entered April 30, 2009, by failing to timely respond to the Department's discovery request as required by the Order.

4. As detailed in the Affidavit of Joseph M. Squitieri, which is attached herein as "Exhibit 2", Defendant continues to be out of compliance with various requirements of the Final Judgment.

5. One of the corrective action options afforded to Defendant in the Final Judgment, involved Defendant diverting flow from Defendant's wastewater treatment facility to the City of Lake Wales's Sam P. Robinson Water Reclamation Facility. After lengthy negotiations, the City of Lake Wales refused to accept the Defendant's waste. Diverting the flow to the City of Lake Wales is no longer an option.

6. In anticipation of this possibility, paragraph A.4. of the Final Judgment states, "[i]n any event, by August 25, 2009, the Facility shall be off-line or in complete compliance with all Department rules and regulations that are the subject of this Final Judgment."

7. To date Defendant has failed to comply with paragraph A.4. of the Final Judgment. (Squitieri Aff. ¶ 5.A.)

8. Paragraphs A.2.-A.3. require Defendant to maintain both percolation ponds and prepare an Abandonment plan prior to taking the Facility off-line.

9. To date, Defendant has failed to comply with paragraphs A.2.-A.3., of the Final Judgment. (Squitieri Aff. ¶¶ 5.B.2.-3.)

10. Additionally, paragraph A.5. of the Final Judgment ordered Defendant to pay \$309,200.00 in stipulated penalties for failing to comply with a Department Order. In addition to these stipulated penalties, paragraph B of the Final Judgment ordered the Defendant to pay \$126,300.00 in civil penalties for violations of various environmental rules and statutes. Therefore, the total penalty amount assessed under the Final Judgment was \$435,500.00.

11. According to paragraph A.5., if Defendant would have complied with paragraphs A.1-A.4. , of the Final Judgment, its \$309,200.00 in stipulated penalties would have been automatically suspended; however, as a result of Defendants non-compliance with section A., the suspension of the penalty is no longer an option. Accordingly, a total of \$435,500.00 is currently past due.

12. To date, Defendant has not paid the Department any penalties. (Squitieri Aff. ¶ 5.D.)

13. Kenneth J. Knowlton is Defendant's sole corporate officer and therefore is directly responsible for Defendant's failure to comply with the Final Judgment.

14. To date, Defendant has failed to comply with various components of the Final Judgment. (Squitieri Aff. ¶ 5)

15. In paragraph H, of the Final Judgment, this Court retained "jurisdiction to enforce this Final Judgment by contempt or other appropriate sanctions."

WHEREFORE, The Department respectfully requests that this Court enter an order:

- A. Finding Defendant in civil contempt of Court.
- B. Ordering Defendant to comply with Paragraphs A.2-A.4. of the Final Judgment.
- C. Ordering Defendant to pay the Department \$435,500.00, which includes: \$309,200.00 in stipulated penalties, and \$126,300.00 in civil penalties.
- D. Ordering appropriate relief including the incarceration of Kenneth J. Knowlton until Defendant purges its contempt by complying with the Final Judgment.

RESPECTFULLY SUBMITTED this 7th day of June, 2011.

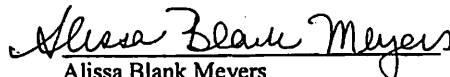
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Alissa Blank Meyers
Senior Assistant General Counsel
3900 Commonwealth Boulevard
Mail Station 35
Bar No. 0647438
Tallahassee, FL 32399-3000
Telephone: (850) 245-2218

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy hereof has been furnished to James C. McClendon II, Weaver & McClendon, PA, Post Office Box 466, Lake Wales, FL 33859-0466 and Kenneth J. Knowlton, 227 Caloosa Lake Circle N., Lakes Wales, FL 33859-8605 on this 7th day of June, 2011.



Alissa Blank Meyers
Senior Assistant General Counsel