

Brian Schultz

From: Brian Schultz on behalf of Records Clerk
Sent: Monday, January 04, 2021 9:18 AM
To: 'tblanco@comcast.net'
Cc: Consumer Contact
Subject: RE: Objection to Permit - Docket No. 20200226-SU Environmental Utilities LLC

Good Morning, Theresa Blanco

We will be placing your comments below in consumer correspondence in Docket No. 20200226-SU and forwarding your comments to the Office of Consumer Assistance and Outreach.

Sincerely,

Brian Schultz

Commission Deputy Clerk II
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
850.413.6770

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From: tblanco@comcast.net <tblanco@comcast.net>
Sent: Sunday, January 03, 2021 9:00 PM
To: Records Clerk <CLERK@PSC.STATE.FL.US>
Subject: Objection to Permit - Docket No. 20200226-SU Environmental Utilities LLC

January 3, 2021

Commission Clerk
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399

VIA EMAIL: clerk@psc.state.fl.us

Re: **Docket 20200226-SU**

I am a property owner on Don Pedro Island. I am writing in opposition to the request from Environmental Utilities, LLC (EU) to provide wastewater services in the areas specified in their application contained at Docket number 20200226-SU which includes Knight Island and Don Pedro Island (listed as area W2 on the Charlotte County Master Sewer Plan).

I also object to the motion by EU to bifurcate the certification from the rate-making proceedings and for a temporary waiver of Rule 25-30.03(1)(p) and (q). See below.

Our objections are based on the following:

1. **Inadequate Notice.** The public notice dated 12.17.2020 is titled “Notice of Application for Original Certificate of Authorization and Rates and Charges for Wastewater Service” This is deceptive as it implies that the estimates of the initial rates and charges are available for review so that the stakeholders might respond to the project within the 30-day period allowed. However, if the rates and charges are separated from the service area certification application, then the stakeholders in reality are being asked for comment on rates and charges that have not been presented for review.

Furthermore, notice appears to have been timed such that the first half of the 30-day period overlapped the year-end holiday period. This combined with the pandemic mail delays resulted in many homeowners receiving their notices late, or not receiving them at all. There was not adequate time to share concerns with the Charlotte County Commissioners and the Florida Public Service Commission. Inadequate notice has been given to the affected communities. This project was not advertised; nor was it an open-bid process with Charlotte County. A bulk sewer contract was awarded without requests for proposals and without a hearing before the County Commissioners. After that issuance, EU applied to the FPSC for permits and bifurcation. On December 21, 2020, EU finally filed its notice with the FPSC stating that the Notice had been mailed on December 17th to affected property owners. At no time have actual costs been disclosed by EU or its principals. EU has repeatedly stated that it won't know until after the permit is issued what the costs will be. This is a private start-up company without experience in sewer system construction with limited resources seeking permitting with a first action by the PSC scheduled to occur within days of the end of the holiday season.

Moreover, the Notice dated December 17th implies that the proposed initial rates are available for review when, in fact, EU has applied for a bifurcated permit which excuses them from rate disclosure prior to issuance of the permit. To that extent, the December 17th Notice is defective. Stakeholders are not able to comment on rates that have not been presented for review.

2. **Financial Backing and Expertise:** The ratemaking process must occur before consideration of the permits can occur. The cases cited in support of bifurcation are inapposite to EU's application and involve much larger population densities involving three cases from the same developer for the same project. This developer had already demonstrated expertise in development of sewer systems to accomplish these projects. Any statements made by the principals of EU to the public are baseless. Instantly, EU has no demonstrable experience and no guaranteed funding (including bond issues) that could even marginally show its solvency, ability to obtain funding, complete the project and/or provide ongoing maintenance.

Specifically, **none of the publicly facing filed documents guarantee any funding and state specifically that there is no commitment to lend.** No projected costs are given. Certainly a proposed project of this size must have been cost-estimated; No CIAC was provided which would identify cash and property contributions; EU appears to have no experience with projections, certainly not sufficient enough to project annual expenses; there is no comprehensive plan in the application that describes how this project will be financed. EU is a start-up company. As such, the company and its principals are inextricably linked. A completed bond issue by a reputable financial institution should be a mandatory condition precedent for any approval. Again, a letter of interest from a local bank is meaningless. Since the reliability of the financial strength of the principals is paramount, their request to treat all of their financial information as confidential is improper and should be denied.

There have been no studies or valid estimates of the cost of this project, both globally and as it applies to Don Pedro Island. The verbal estimate given by Jack Boyer to community groups of approximately \$20,000 per homeowner is not based on any actual cost estimates related to this project. Given the project location and necessary involvement of multiple state (and potentially federal) agencies, the number is likely to be much higher. This places an undue burden on property owners. No permits should be issued without disclosure and verification of all of the necessary costs, e.g. profits build-ins, ongoing operating costs, construction costs, construction slow-downs or complications; distribution and allocation of cost-recovery, etc.

In addition, the Charlotte County Master Sewer Plan provides for a vacuum sewer system, not a low-flow system as proposed by EU. Importantly, a low flow system would not address solids treatment.

EU has failed to address its ongoing operating costs. In an applicant with limited operating experience and financial resources, how will ongoing operating costs be addressed? *Jack Boyer has stated to community groups that if they fight him, the costs will be passed on to the community.* While cryptic, the intent seems clear and also indicates the tenuousness of EU's financial position going into this project. EU is a private, for-profit utility company. The owners' financial history and the financial health of the company is not known and not publicly available. Also, the owner has little or no demonstrated experience with sewer systems and the owner's present water company has a long list of non-compliance and violations registered with the DEP. Allowing the application to go forward without the rate-making portion essentially awards the service area to EU before any costs and rates are established.

Importantly, Mr. Boyer was charged with and indicted for larceny as it relates to a utility as well as criminal mischief for stealing water from Don Pedro Island State Park to serve his own water utility on Little Gasparilla Island. In summary, Mr. Boyer waited until rangers were absent from the park over a weekend and installed a water main from the Don Pedro State Park fresh water supply pipe, trenched it to LGI and hooked it up to his water company's facility so that he could supply his customers and charge them for water which he stole. It is inconceivable that he should be granted a permit to run a utility given his history of dishonesty and theft, especially without disclosure of his funding and financing sources.

3. **No provision has been made to allow for payment over time** should the project go forward. In addressing this question to resident, the applicant has stated that grants might be available without any factual basis for these statements and without any data in support relative to this project. Grants seem far-fetched at best since the State of Florida is facing a significant budget shortfall exacerbated by the COVID-19 crisis. This application should be rejected until the applicant provides a firm cost per ERU along with appropriate financing options and payment vehicles for those affected owners along with the demonstrated financial ability to provide for payments over time.
4. **No Demonstrated Need.** The County adopted the 2017 Sewer Master Plan which includes these Islands for sewer executed by CCUD (Charlotte County Utilities Dept.). There was no study of the source of the nitrites alleged to be spilling into inland and shore waters. Specifically, there was no study to determine whether these were coming from leaky sewage tanks or from fertilizers. Therefore, the assumption that the alleged pollution is emanating from sewer tanks is a false one, as is the assumptions made about the presumed ages of the tanks.

5. **Location of Project:** The proposed project is on a bridgeless barrier island with unique characteristics that have been unaddressed in the application. This will affect the cost and feasibility of the project. There is no indication that stakeholder agencies such as the West Coast Inland Navigation District (WCIND), Department of Environmental Protection (DEP), Florida State Parks, the Florida Submerged Land Trust, or Florida Fish and Wildlife (FWC) have been consulted. The plan for the pumping station on Don Pedro Island situates it on land adjacent to an access waterway required to access many homes on the island. Construction would be through a well-established flat and navigable waterway which would impede boat and emergency access. DEP permits would be required for destruction of flats and mangroves; FWC approvals would be necessary for destruction of endangered and threatened species habitat. None of these issues have been addressed, and these are only a few of them. The acquisition of easements has not been addressed in EU's application. The question of who will oversee the construction through sensitive and protected habitat has not been addressed. The financial costs of this type of project, e.g. affecting threatened species and protected wetlands and shorelines, have not been addressed. This begs the question of EU's financial solvency and competency going into this project.

6. **Oversight by Charlotte County:** EU has been clear that Charlotte County intends to have no involvement in the proposed project and that the county's role is limited to allowing hookup to its mains on the mainland. Charlotte County intends to give EU no support for the project in the event of construction or financial difficulty, and moreover will not protect its citizens from ill effects of EU's project. The citizens will be left to bear the burden of any construction, management or financial failures of this project. This is essentially an indemnification agreement whereby EU is holding Charlotte County harmless from liability. In such an arrangement, it is even more important for EU to be required to have full financial disclosure to ensure that there is enough solvency and insurance to pay claims should the endeavor fail for any reason.

In summary EU has not demonstrated that it has the financial capability and funding to sustain itself now and during the time this project is pending. It has not demonstrated that it has the financial stability to obtain the necessary permits from all stakeholder agencies given the time that these processes take. It has not demonstrated that it has the ability to obtain the required financing. Under the circumstances, it would be a violation of the mandate of the Florida Public Service Commission to grant a permit. EU has shown a conscious disregard for the citizen stakeholders in many ways, but none moreso than its threats to pass on its legal fees to customers should they challenge its permit application.

Given the absence of financial and operational data to support this project, and the absence of any discernible expertise, EU's application should be denied.

Sincerely yours,

Theresa M. Blanco
tblanco@comcast.net
Don Pedro Island