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December 18, 2023

Adam Teitzman, Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 20230114-WS; Application for certificates to provide water and wastewater service in Volusia County by Applegate Utility, LLC

Dear Mr. Teitzman:

This letter will serve as the response of the Applicant to the Florida Public Service Commission's "second deficiency letter" issued in the above-referenced matter on December 14, 2023. I have outlined below each of the three deficiencies raised in the Commission's letter and the utility's response to each.

1. **Filing Fee.** Rule 25-30.020(2)(a), Florida Administrative Code (F.A.C.), states that all applications for an original certificate filed pursuant to Section 367.045, Florida Statutes, shall pay a filing fee based on a utility's existing or proposed capacity. Regarding Applegate's response to Staff's Deficiency Letter, the filing fee is not calculated based on the number of customers, but instead on the existing capacity. Therefore, the required filing fees are \$1,500 for water service and \$750 for wastewater service, for a total filing fee of \$2,250. The Utility paid a filing fee of \$1,500. Please remit the remaining filing fee balance of \$750.

Utility Response. The Utility filed a supplement to Exhibit A to its application on October 20, which provided a listing of the number and types of customers served by the Utility. The system is currently serving 88 wastewater customers and 144 water customers and is at buildout. The filing fee for that size system is \$750 for water and \$750 for wastewater under the referenced rule. Based upon my discussions with members of the PSC staff, I have determined that their interpretation of the above-referenced rule relies upon the DEP rated capacity of the water system in order to determine the appropriate capacity of the system and therefore the filing fee. The Utility believes that this reliance upon rated capacity, rather than the limitations of the remainder of the system, leads to an illogical and unreasonable application of the rule requirements and therefore an excessive proposed filing fee. DEP rated capacity is likely the result of one or two pumps having a larger horsepower or gpd rate capacity than is necessary in order to serve the Utility's customer base. However, all other components of the system are constructed for the purpose of serving the existing customer base and no further expansion of the system is anticipated or even possible. Therefore, the staff interpretation of the rule is unreasonable and illogical.

However, in order to expedite processing of this case, I am attaching hereto an additional filing fee of \$750 as requested by staff. This fee is paid under protest as we feel the staff's interpretation of the rule and application of their criteria is unreasonable in these circumstances.

2. **DEP Compliance.** Rule 25-30.034(1)(j)(3), F.A.C., states the applicant shall provide a copy of the utility's most recent DEP and/or county health department sanitary survey, compliance inspection report, and secondary standards drinking water report. In Applegate's response to Staff's Deficiency Letter, the Utility's most recent DEP secondary standards drinking water report was provided; however, no compliance inspection report was included. Please provide the Utility's most recent DEP compliance inspection report.

Utility Response. Attached hereto are correspondence from DEP reflecting the deficiencies noted in July of 2022 and a December 8, 2022 letter from DEP stating that the facility has been determined to have resolved all of the identified issues and is in compliance with the Department's rules and regulations. This constitutes the most recent DEP compliance inspection report and resolution of same as requested by staff.

Should you or any members of the Commission staff need any further information or have any questions, please let me know. Otherwise, I believe we have complied with all of the deficiencies noted in this or the first deficiency letter.

Sincerely,

SUNDSTROM & MINDLIN, LLP

/s/ F. Marshall Deterding

F. Marshall Deterding
Of Counsel

FMD/brf

Enclosures

cc: Emily Knoblauch eknoblau@psc.state.fl.us



FLORIDA DEPARTMENT OF Environmental Protection

Central District Office
3319 Maguire Blvd., Suite 232
Orlando, Florida 32803

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Secretary

December 8, 2022

Johnathan Wyss, Manager
Applegate MH Community
10221 River Rd. Ste. 59831
Potomac, MD 20859
jon@parakeetcommunities.com

Re: Return to Compliance
Applegate Estates
Facility ID No.: FLA011159
Volusia County

Dear Mr. Wyss:

Department personnel conducted a review of the response to the Compliance Assistance Offer Letter issued July 15, 2022. Based on the information provided in your response, the facility was determined to have resolved the identified issues and has returned to compliance with the Department's rules and regulations.

The Department appreciates your efforts to maintain this facility in compliance with state and federal rules. Should you have any questions or comments, please contact Gina Laddick of the Central District Office at (407) 897-4309 or via e-mail at Gina.Laddick@FloridaDEP.gov.

Sincerely,

A handwritten signature in black ink that reads "Daniel K. Hall".

Daniel K. Hall, Environmental Manager
Central District
Florida Department of Environmental Protection

cc: Gina Laddick, CD DEP, Gina.Laddick@FloridaDEP.gov
Carlos Tola Jr, Biometric Utility, manager@biometricutility.com
Natalie Magurne, Parakeet Communities, natalie@parakeetcommunities.com
Eric Maday, Volusia County DOH, Eric.Maday@flhealth.gov



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July 15, 2022

Johnathan Wyss, Manager
Applegate MH Community
10221 River Rd. Ste. 59831
Potomac, MD 20859
jon@parakeetcommunities.com

Re: Compliance Assistance Offer
Applegate Estates
Facility ID No.: FLA011159
Volusia County

Dear Mr. Wyss :

An inspection was conducted at your facility on June 10, 2022. During this inspection, potential non-compliance was noted. The purpose of this letter is to offer compliance assistance as a means of resolving these matters.

Potential non-compliance with the requirements of chapter 403, Florida Statutes, and chapters 62-620, 62-610, 62-640, 62-604 Florida Administrative Code were observed. Please see the attached inspection report for a full account of Department observations and recommendations.

We request you review the item(s) of concern noted and respond in writing within **15 days** of receipt of this Compliance Assistance Offer. Your written response should include one of the following:

1. Describe what has been done to resolve the non-compliance issue or provide a schedule describing how/when the issue will be addressed. Please see "corrective actions" in the attached inspection report.
2. Provide the requested information, or information that mitigates the concerns or demonstrates them to be invalid, or
3. Arrange for the case manager to visit your facility to discuss the item(s) of concern.

It is the Department's desire that you are able to adequately address the aforementioned issues so that this matter can be closed. Your failure to respond promptly may result in the initiation of formal enforcement proceedings.

Applegate Estates WWTF; Facility ID No.: FLA011159
Compliance Assistance Offer
Page 2 of 2

Please address your response and any questions to Gina Laddick of the Central District Office at (407) 897-4309 or via e-mail at Gina.Laddick@FloridaDEP.gov. We look forward to your cooperation with this matter.

Sincerely,



Daniel K. Hall, Environmental Manager
Central District
Florida Department of Environmental Protection

Enclosures: Inspection Report and Photo Log

cc: Gina Laddick, CD DEP, Gina.Laddick@FloridaDEP.gov
Daniel K. Hall, CD DEP, Daniel.K.Hall@FloridaDEP.gov
Carlos Tola Jr, Biometric Utility, manager@biometricutility.com
Natalie Magurne, Parakeet Communities, natalie@parakeetcommunities.com
Eric Maday, Volusia County DOH, Eric.Maday@flhealth.gov