

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to operate  
water utility in Lake County by South Umatilla  
Water.

DOCKET NO. 060433-WU  
ORDER NO. PSC-08-0256-FOF-WU  
ISSUED: April 24, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

ORDER DISMISSING APPLICATION

BY THE COMMISSION:

On June 5, 2006, South Umatilla Water (South Umatilla or utility) filed an application for an original water certificate in Lake County. The utility, which has been providing water service since 1948 and serves 122 connections, had not requested certification earlier because it believed it was exempt from regulation because of its size. The Florida Department of Environmental Protection (DEP) brought the utility to our attention, and after consultations with our staff the utility's owner filed the June 5, 2006, application.

The application was deficient in numerous ways. We attempted to work with South Umatilla to correct the deficiencies, but the utility failed to respond to several requests for information. Ultimately, South Umatilla stopped communicating with us altogether.

During the time we were attempting to correct the application deficiencies, DEP initiated proceedings in Lake County against South Umatilla for failure to comply with DEP's environmental requirements. DEP's action culminated in a Consent Final Judgment, issued September 24, 2007, in which South Umatilla agreed to transfer all the utility property and assets to Lake County by October 1, 2007 (Attachment A). Lake County took over ownership and operation of the water system on October 1, 2007, and South Umatilla deeded the utility land to Lake County on February 14, 2008.

This order addresses the disposition of South Umatilla's outstanding certificate application. We have jurisdiction over this matter pursuant to Sections 367.045, 367.071, and 367.022(2), Florida Statutes.

Because Lake County took over ownership and operation of the South Umatilla system on October 1, 2007, pursuant to the Consent Final Judgment issued by the Fifth Judicial Circuit Court for Lake County, that event has rendered the application for a certificate moot. Lake County now owns the utility, and pursuant to Section 367.022(2), Florida Statutes, utility

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systems owned, operated, managed, or controlled by governmental authorities are exempt from our regulation. Therefore, South Umatilla's certificate application shall be dismissed and this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that South Umatilla's certificate application shall be dismissed. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 24th day of April, 2008.

  
\_\_\_\_\_  
ANN COLE  
Commission Clerk

( S E A L )

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

*Revised 06/13/33*

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT,  
IN AND FOR LAKE COUNTY, FLORIDA

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

vs.

Case No.: 07 CA 948

SOUTH UMATILLA WATER, INC.,

Defendant.

CONSENT FINAL JUDGMENT

The parties to this action, Plaintiff, State of Florida Department of Environmental Protection ("Department"), and Defendant, South Umatilla Water, Inc. ("South Umatilla"), agree and consent to the entry of this Consent Final Judgment ("Judgment"), and the Court, having reviewed the pleadings, and the record, and being otherwise duly informed, finds that:

1. This Court has jurisdiction over the subject matter and the parties hereto.
2. This Judgment shall constitute the complete settlement for the parties of all issues raised in this litigation.
3. The 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 Central District Office is located at 3319 Maguire Boulevard, Suite 232, Orlando, Florida, 32803.
4. South Umatilla is a corporation that owns and operates a public water system, PWS Id. No. 3351221, consisting of two drinking water treatment plants, and their associated

ATTACHMENT A

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... piping, which supplies drinking water to over 400 citizens of the State, located in Umatilla, Lake County, Florida ("water system").

5. South Umatilla has decided to abandon the water system effective October 1, 2007, and has agreed to transfer all property and assets regarding the water system over to Lake County, a political subdivision of the State of Florida, ("Lake County"), in accordance with Section 367.165, Florida Statutes.

6. Lake County has agreed to own and operate the water system effective October 1, 2007, and comply with the requirements set forth in Chapters 62-550, and 62-555, Florida Administrative Code.

7. All parties have agreed to bear their own costs and fees associated with this action and the Department shall hold South Umatilla, its officers, directors, and shareholders faultless from any liability regarding fees, penalties, or other assessments made by the Department regarding this action.

8. Based on these findings and the stipulation of the parties, it is, therefore,  
ORDERED AND ADJUDGED:

9. By October 1, 2007, South Umatilla shall abandon the water system and transfer all assets of the water system to Lake County.

10. Lake County will own and operate the water system effective October 1, 2007, and comply with the requirements set forth in Chapters 62-550, and 62-555, Florida Administrative Code.

11. If South Umatilla fails to comply with any provision of this Judgment, the Department may seek any and all judicial remedies available and shall be entitled to the payment

ATTACHMENT A

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of reasonable attorney's fees incurred by the Department to enforce any provision of this Judgment. Otherwise, each party shall bear its own cost, expenses, and attorney's fees.

12. Entry of this Judgment does not relieve South Umatilla of the need to comply with all applicable federal, state, or local laws, regulations, or ordinances.

13. No modifications of the terms of this Judgment shall be effective until reduced to writing, executed by the Department and South Umatilla, and approved by the Court.

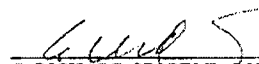
14. The provisions of this Judgment shall apply to and be binding upon the Department, South Umatilla, and their agents, successors, and assigns.

15. The petitioning for relief under the federal bankruptcy code by South Umatilla shall not affect or be construed to affect South Umatilla's obligations under this Judgment.

16. The Court retains jurisdiction to enforce the terms of this Judgment by contempt or other appropriate sanctions and issue such other and further orders as may be appropriate until completion of all corrective actions contained herein.

DONE AND ORDERED in Tavares, Lake County, Florida this 24 day of

September, 2007.

  
G. RICHARD SINGELTARY  
CIRCUIT COURT JUDGE -


CONSENT TO ENTRY WITHOUT FURTHER NOTICE OR HEARING

The parties hereby agree and consent to the Court's entry of the proposed Consent Final Judgment without further litigation in complete satisfaction of all of the claims arising out of the Petition for Enforcement and Complaint in this case.

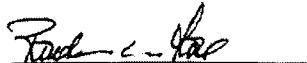
ATTACHMENT A

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FOR PLAINTIFF, STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

  
VIVIAN F. GARFEIN  
District Director  
Central District Office  
Maguire Boulevard, Suite 232  
Orlando, Florida, 32803


9/21/07  
Date

  
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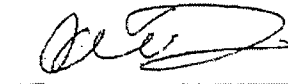
9.21.07  
Date

cc. Ronda L. Moore  
C. Michael Duncan

FOR DEFENDANT, SOUTH UMATILLA  
WATER, INC.

  
CHLOE K. BONDS-WORMACK, as  
President of South Umatilla Water, Inc.  
P. O. Box 492  
Umatilla, FL 32784

9/21/07  
Date

  
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