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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition of SANLANDO )  
UTILITIES CORPORATION for a )  
Limited Proceeding to Implement a )  
Water Conservation Plan. )

Docket No. 930256-WS  
Filed: February 16, 1994

PETITION TO INTERVENE OF THE FLORIDA AUDUBON SOCIETY AND  
FRIENDS OF THE WEKIVA RIVER INC.  
IN SUPPORT OF SANLANDO UTILITY CORPORATION'S LIMITED  
PROCEEDING TO IMPLEMENT A WATER CONSERVATION PLAN

COME NOW, Petitioners, Florida Audubon Society, Inc., and Friends of the Wekiva River Inc. ("Audubon" and "Friends"), pursuant to Section 25-22.039, Florida Administrative Code, seeking to intervene before the Florida Public Service Commission ("Commission") concerning the Limited Proceeding to Implement a Water Conservation Plan filed by Sanlando Utilities Corporation ("Sanlando") on March 10, 1993. In support of this petition, Audubon and Friends state:

1. This matter is before the Florida Public Service Commission. The Commission's docket number is 930256-WS.

2. Petitioners Friends and Audubon are Florida non profit corporations, organized for the purpose of advocating the protection of natural resources, including fish and wildlife habitat, natural fresh water supplies, and the natural areas within the Wekiva River ecosystem. The address of the Florida Audubon Society is 460 Highway 436, Suite 200, Casselberry, Fl. 32707. The address of Friends of the Wekiva River Inc. is 164 Wekiva Park Drive, Sanford Fl. 32771.

3. Petitioners Friends and Audubon have for a considerable period of time taken action to encourage and require Sanlando to

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institute water conservation efforts through wastewater reuse, and the construction of a reclaimed water system as an alternative to wastewater discharges to the Wekiva River. In November, 1991, Friends and Audubon initiated a Petition for Formal Proceedings, pursuant to Section 120.57 (1) Florida Statutes, challenging the proposed approval by the Department of Environmental Regulation (now Department of Environmental Protection) of an operating permit for Sanlando's wastewater discharge in the Wekiva River (Exhibit "A"). Subsequent to filing this petition, Friends and Audubon entered into negotiations with the Department of Environmental Regulation and Sanlando, which resulted in a Stipulation of Settlement and entry of a Final Order in DOAH Case No. 91-5743, which required Sanlando to pursue the Limited Proceeding that resulted in this Docket before the Commission (Exhibit "B").

4. The substantial interests of Audubon and Friends, and their members will be adversely affected should the Commission reject Sanlando's request to implement its water conservation plan through the Limited Proceeding it initiated before the Commission. Members of Audubon and Friends reside in the Sanlando Service area, and will be affected directly by the outcome of this proceeding. Audubon owns substantial areas of real property within the Wekiva River Basin that will be affected by the outcome of this proceeding. Adverse affects on the substantial interests of Audubon and Friends, and the members of these corporations will occur (should the Sanlando water conservation plan not be implemented) because Sanlando will continue to waste valuable water resources

through unnecessary discharges to the Wekiva River. Further, because the Sanlando discharge water thus wasted will not be available to serve irrigation needs, major users of groundwater for irrigation (golf courses) will continue to withdraw potable water from aquifers within designated Water Use Caution areas. Such unnecessary uses of water from stressed aquifers will result in depletion of groundwater resources, and contribute to the reduction of the flow of natural springs (such as Wekiwa Springs and Rock Springs).

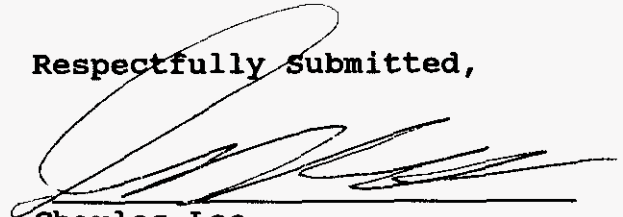
5. Audubon and Friends are aware of no disputed issues of material fact in this proceeding. To the extent that the statements in paragraphs (3) and (4) above reference factual matters, these statements rely upon: (a) Section 403.064, Florida Statutes. (b) Chapter 17-40, Florida Administrative Code. (c) Chapter 42-2, Florida Administrative Code. (3) The Final Order in DOAH Case No. 91-7543.

6. Audubon and Friends support the position of Sanlando, and Intervenor St. Johns River Water Management District in this proceeding. It is the position of Audubon and Friends that the Commission should grant Sanlando's request, and that the approval of this request is authorized by the Legislature through enactment of Section 403.064 (6), Florida Statutes, which provides:

Pursuant to Chapter 367, the Florida Public Service Commission shall allow entities which implement reuse projects to recover the full cost of such facilities through their rate structure. (emphasis added)

7. Audubon and Friends request that they be allowed to intervene in this proceeding to support the position of Sanlando, Intervenor St. Johns River Water Management District, and to protect their substantial interests and the interests of their constituent members through the presentation of testimony and evidence relevant to Salando's petition.

Respectfully Submitted,



Charles Lee  
Senior Vice President  
Florida Audubon Society  
460 Highway 436 Suite 200  
Casselberry, Fl. 32707  
(407) 260-8300  
Representative of Florida  
Audubon Society and Friends  
Friends of the Wekiva River

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original and 15 copies of the foregoing Petition were filed with the Clerk of the Florida Public Service Commission and a correct copy of the foregoing Petition was sent by U.S. Mail to John F. Lowndes, 215 N. Eola Dr. Orlando, Fl. 32802; Kathy Biddell, Florida Public Service Commission, 101 E. Gaines St. Tallahassee, Fl. 32399; Maggie O'Sullivan, Division of Legal Service, Florida Public Service Commission, 101 E. Gaines St. Tallahassee, Fl. 32399; Jack Shreve, Public Counsel, and Stephen C. Reilly, Associate Public Counsel, Office of Public Counsel, 111 W. Madison St. Room 812 Tallahassee, Florida 32399-1400; Robert L.

Taylor, 1900 Summit Tower Blvd. Suite 800, Orlando, Fl. 32810;  
Tricia A. Madden, 108 Beauford Dr. Longwood, Fl. 32779; Robert E.  
Swett, 106 Wyndham Ct. Longwood, Fl. 32779; and Jack Hiatt, 1816  
Wingfield Dr., Longwood, Fl. 32779, on this 16<sup>th</sup> day of February,  
1994.

  
\_\_\_\_\_  
Charles Lee

Exhibit "A"

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

FRIENDS OF THE WEKIVA and )  
FLORIDA AUDUBON SOCIETY, )  
 )  
Petitioners, )  
 )  
vs. )  
 )  
SANLANDO UTILITIES CORP. and )  
DEPARTMENT OF ENVIRONMENTAL )  
REGULATION, )  
 )  
Respondents. )  
 )  
 )  
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DER APP. NO. 3059P03243

PETITION FOR FORMAL 120.57 (1) HEARING

COME NOW Petitioners, FRIENDS OF THE WEKIVA, INC., and FLORIDA AUDUBON SOCIETY, INC. to petition the Department for a formal hearing in the above styled cause. In support of their petition, Petitioners state:

1. The address of Friends of the Wekiva is 655 Terrace Blvd, Orlando, Fl. 32803. The address of the Florida Audubon Society is 460 Highway 436, Suite 200, Casselberry, Fl. 32707.

2. Petitioners received notice of the above proceeding in the form of a "Notice of Permit issuance", dated October 23, 1991, and received VIA U.S. Mail, on October 25, 1991.

3. The agency affected is the Department of Environmental Regulation, 2600 Blair Stone Rd. Tallahassee, Fl. 32399.

4. Petitioners are non profit Florida Corporations whose constituent members utilize the Wekiva River, its tributary streams, and adjacent lands for fishing, boating, swimming, nature study, scientific research, and other lawful pursuits that will be adversely affected in the event that the permits issued in this cause are ultimately approved. The Florida Audubon Society owns property adjacent to the Wekiva River and its tributaries, which property will be adversely affected by the operation of the Sanlando

Utilities Corporation facility under the proposed permit. Members of the Florida Audubon Society and Friends of the Wekiva also own property adjacent to the Wekiva River and its tributaries which will be adversely affected by the proposed permit.

5. Petitioners state, in this verified petition, filed pursuant to the provisions of Section 403.412 (5) of the Florida Statutes, that the water and natural resources of the state will be impaired, destroyed, or polluted should the permit in this cause ultimately be issued. Such effects will occur through pollutant discharges to the Wekiva River System, a river system that has been designated as "Outstanding Florida Waters" pursuant to Section 17-3.041 (4) (i), Florida Administrative Code.

6. Petitioners state the following as disputed issues of material fact:

(a) Whether the discharge governed by this permit will degrade existing ambient water quality in the Wekiva River Outstanding Florida Waters;

(b) Whether the water quality monitoring required in the conditions of this permit is adequate to detect degradation of ambient water quality in the Outstanding Florida Waters of the Wekiva River;

(c) Whether the mixing zone granted for the facility will result in degradation of the ambient water quality of the Wekiva River Outstanding Florida Waters;

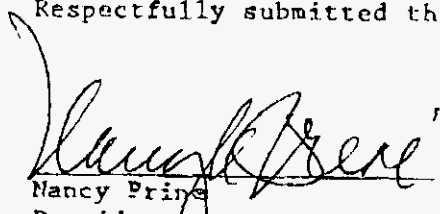
(d) Whether the conditions of the permit which, under certain circumstances, require an additional level of treatment and/or implementation of water reuse are adequate to protect the ambient water quality in the Outstanding Florida Waters of the Wekiva River.

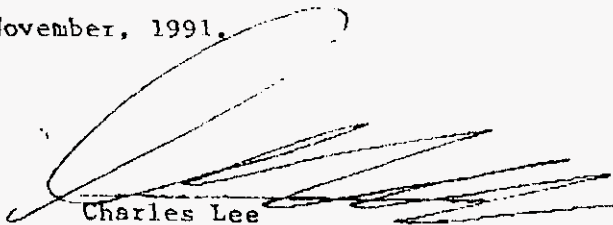
(e) Whether the duration of the permit (expiration October 21, 1996) is excessive with regard to protection of the ambient water quality in the Outstanding Florida Waters of the Wekiva River.

(7) Petitioners state, as ultimate conclusions of fact and law, that the applicant has failed to provide reasonable assurance that the issuance of the subject permit will not result in significant degradation of the Outstanding Florida Waters of the Wekiva River (Section 17-4.242 F.A.C.); and that because the discharge of this facility flows into Outstanding Florida Waters, the Department has failed to include conditions, requirements, and restrictions reasonably necessary to protect the quality of the receiving waters and to ensure proper operation of the pollution control facilities (Section 17-4.240 F.A.C.)

(8) Petitioners are entitled to relief pursuant to the above cited provisions of the Florida Administrative Code, Section 403.412 (5), Florida Statutes, Sections 403.061, 403.062, 403.088, 403.021, 403.031, 403.087, 403.101 Florida Statutes, and Section 120.57 (1), Florida Statutes. Petitioners pray that this matter be referred to a hearing officer of the Division of Administrative Hearings, and that an order be entered denying the subject permit, or in the alternative, subjecting the approval of the subject permit to additional or stricter conditions intended to assure protection of the Wekiva River Outstanding Florida Waters.

Respectfully submitted this 5<sup>TH</sup> day of November, 1991.

  
Nancy Prince  
President  
Friends of the Wekiva  
655 Terrace Blvd.  
Orlando, Fl. 32803

  
Charles Lee  
Senior Vice President  
Florida Audubon Society  
460 Highway 436 Ste 200  
Casselberry, Fl. 32707



VERIFICATION

BEFORE ME appeared Nancy Prine, and Charles Lee, known to me respectively as President of Friends of the Wekiva and Senior Vice President of the Florida Audubon Society, who, when duly sworn, did state that the facts contained in this verified petition are true and correct to the best of their knowledge and belief. Sworn and subscribed before me this 8<sup>th</sup> day of November, 1991.

*James A. Schutt*  
NOTARY  
NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXP. MAR. 26, 1994  
BONDED INTO GENERAL INS. UND.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been provided by U.S. Mail this 5<sup>th</sup> date of November, 1991 to: Hubert Jacques, Executive Vice President, Sanlando Utilities Corporation, P.O.B. 3884, Longwood, Florida 32750; Dan Thompson, General Counsel, Department of Environmental Regulation, 2600 Blair Stone Rd. Tallahassee, Fl. 32399

*[Signature]*  
Charles Lee

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

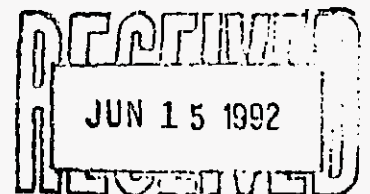
FRIENDS OF THE WEKIVA AND )  
 FLORIDA AUDUBON SOCIETY, )  
 )  
 Petitioners, )  
 )  
 vs. )  
 )  
 SANLANDO UTILITIES CORPORATION )  
 AND DEPARTMENT OF ENVIRONMENTAL )  
 REGULATION, )  
 )  
 Respondents. )  
 )

DOAH Case No. 91-7543  
OCC Case No. 91-2133

FINAL ORDER

On November 7, 1991, the State of Florida Department of Environmental Regulation ("Department") received a request for administrative hearing from Petitioner's Friends of the Wekiva and Florida Audubon Society. The Petition challenged the Department's decision to issue Permit No. 200447 to Sanlando Utilities Corporation to operate a domestic wastewater treatment facility in Seminole County.

On April 30, 1992, after receiving a Settlement Stipulation from all parties, the assigned Hearing Officer issued an Order which closed the Division of Administrative Hearings file and relinquished jurisdiction back to the Department (Exhibit 1). There being no further matters to consider,



IT IS ORDERED:

The petition is hereby dismissed and the Department's Central District Office is directed to issue Permit No. 200447 as modified in the Settlement Stipulation attached as Exhibit 2.

Any party to this Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Order is filed with the clerk of the Department.

DONE AND ORDERED this 12 day of June, 1992, in Tallahassee, Florida.

State of Florida Department  
Of Environmental Regulation



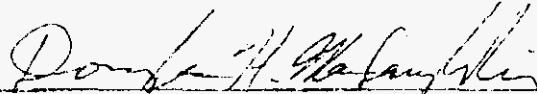
Carol M. Browner  
Secretary  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400  
Telephone (904) 488-4805

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION  
Tallahassee, Florida  
I, \_\_\_\_\_, Secretary of the Department, in receipt of which is hereby acknowledged.

 Clerk      6.1.92 Date

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Charles Lee, Florida Audubon Society, 460 Highway 436, Suite 200, Casselberry, Florida 32707 and John F. Lowndes, Esquire, P.O. Box 2809, Orlando, Florida 32802 on this 12 day of June, 1992.



Douglas H. MacLaughlin  
Assistant General Counsel  
Department of Environmental  
Regulation  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400  
Telephone (904) 486-9730

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STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

Dept. of Environmental Reg.  
Office of General Counsel

FRIENDS OF THE WEKIVA and  
FLORIDA AUDUBON SOCIETY,

Petitioners,

vs.

DOAH CASE NO. 91-7543

SANLANDO UTILITIES CORP. and  
DEPARTMENT OF ENVIRONMENTAL  
REGULATION,

Respondents.

SETTLEMENT STIPULATION OF FRIENDS OF THE WEKIVA,  
FLORIDA AUDUBON SOCIETY, SANLANDO UTILITIES CORP.  
AND FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION

COME NOW Petitioners, FRIENDS OF THE WEKIVA and FLORIDA AUDUBON SOCIETY, and the Respondent, SANLANDO UTILITIES CORP., prospective permittee with regard to the Operating Permit which is at issue in this proceeding; and the Respondent, the FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION; to enter into this Stipulation which is intended to resolve conclusively all of the issues raised by Petitioners in this proceeding. Wherefore, the parties hereto agree as follows:

1. The parties hereto agree that a recommended Order should be issued by the Hearing Officer in this proceeding providing for the issuance of an operating permit (the "Operating Permit") to Sanlando Utilities Corp., which includes all of the terms and conditions of the draft permit (the "Draft Permit," attached hereto as Exhibit "A") prepared by the Florida Department of

Environmental Regulation, as those conditions are amended and added to in Paragraph 2 hereof.

2. In addition to the terms and conditions of the Draft Permit, the parties hereto stipulate and agree that the following amendments to existing conditions and new permit conditions will be incorporated in the Recommended Order and added to the Operating Permit, to wit:

(a) With regard to Specific Condition 2 of the Draft Permit, the "Recording or sampling frequency" for each parameter which the Draft Permit lists as "quarterly" shall be amended to read "monthly." Corresponding language in all permit conditions shall be changed accordingly to be consistent with the increased frequency of monitoring.

(b) In order to encourage the conservation of water and the reduction of sewage effluent, and in order to provide a fund for the construction of the improvements described in Paragraphs 3(i) and 3(ii) hereof, Sanlando Utilities Corp., and any successor owner of the sewage treatment plant which is the subject of the Operating Permit, shall use its best efforts to implement an "inverted rate structure" which shall charge customers an increased rate based upon the amount of water consumed. Beginning when permitted by the Florida Public Service Commission, the rates charged shall be not less than the following schedule:

Charge per 1,000 gallons of water:

Up to 10,000 gallons per month: \$.34 per 1,000 gallons

10,000 to 20,000 gal. per month: \$.50 per 1,000 gallons

20,000 to 30,000 gal. per month: \$.65 per 1,000 gallons

30,000 gal. per month and up: \$.85 per 1,000 gallons

It is agreed that the obligation of Sanlando Utilities Corp. to implement such an inverted rate structure shall be subject to the prior approval of the Florida Public Service Commission. Petitioners agree to join with Sanlando Utilities Corporation in preliminary discussions with the staff of the Public Service Commission, and selected individual members of the Commission (to the extent permitted by law), to determine if the Commission and its staff would be receptive to the approval of rate changes such as those specified herein for the purposes of encouraging water conservation, generating capital for the construction of the improvements specified in Subparagraphs (3)(i) and (ii) below, and for the operation and maintenance of reclaimed water processing and distribution facilities. If these preliminary discussions provide positive indications that there is a reasonable likelihood that a formal application for such rate changes (or similar rate changes) will be approved by the Commission, Sanlando will do the following:

- (i) The charges set forth in this paragraph shall be requested by Sanlando Utilities Corp. in a rate proceeding which Sanlando Utilities Corp. shall initiate no later than nine (9) months subsequent to the effective date of this Stipulation. It is agreed by the parties hereto that the rate changes initially sought through the Commission shall be not less than those shown above.

(ii) Sanlando Utilities Corp. shall diligently pursue and advocate these rate changes before the Public Service Commission.

(iii) Sanlando Utilities Corp. shall advocate these rate changes pursuant to Section 403.064(6), Florida Statutes, which provides that "...The Public Service Commission shall allow utilities which implement reuse projects to recover the full cost of such facilities through their rate structure."

(c) Specific Conditions 3 and 4 shall be deleted and the following Specific Conditions shall be substituted in their place and stead, to wit:

"3. SANLANDO UTILITIES CORP., or any successor operating pursuant to the Operating Permit, will do the following:

(i) By December 31, 1995, improve the Wekiva wastewater plant so that this plant meets all regulatory standards for providing and distributing reclaimed water for golf course irrigation purposes in sufficient quantities to irrigate the Sweetwater Club, Wekiva Hunt Club and Sabal Point Golf courses. Such quantities shall not be less than 1.8 mgd.

(ii) By December 31, 1996, have installed distribution lines necessary for the delivery of reclaimed water to the boundary of each of the three golf courses identified in subparagraph (i) above.

(iii) In the event that the rate structure of Sanlando Utilities Corp. is not sufficient to fund the construction of



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improvements by the times required as identified in subparagraphs (i) and (ii) above because the Florida Public Service Commission fails to approve the inverted rate structure outlined in subparagraph (b) above, or some alternative rate structure, which will provide the funding for the construction of said improvements, the Department shall provide Sanlando Utilities Corp., or any successor operating under this permit, with the opportunity to demonstrate to the department that it lacks sufficient revenue from customer rates to fund the construction and complete these requirements on the schedule provided herein. Should Sanlando Utilities Corp., or its successor, satisfy the Department that it lacks such sufficient revenue to make these improvements, the Department will grant extensions of time, or such other relief as is appropriate under the circumstances."

(d) Sanlando Utilities Corp., and any successor operating pursuant to this Operating Permit, agrees to install one (1) additional water quality monitoring station to be located within the Wekiva River at a location immediately downstream of the confluence of Sweetwater Creek/Cove Lake and the Wekiva River. The precise location of this monitoring station shall be fixed in consultation with Friends of the Wekiva and Florida Audubon Society. Parameters to be monitored at this location shall be the same as those stated in Specific Condition 2 of the Draft Permit.

3. The Florida Audubon Society and Friends of the Wekiva agree to support proposed rate changes before the Public Service

Commission which are necessary to fund the full cost of the water reuse measures required by this Stipulation.

*Nancy Payne*  
Nancy Payne, President  
FRIENDS OF THE WEKIVA  
655 Terrace Boulevard  
Orlando, FL 32803

*Charles Lee, Sr.*  
Charles Lee, Sr. Vice President  
FLORIDA AUDUBON SOCIETY  
460 Highway 436, Suite 200  
Casselberry, FL 32707

SANLANDO UTILITIES CORP.

FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION

By: *Lester N. Mandell*  
Lester N. Mandell,  
President  
P. O. Box 3884  
Longwood, FL 32791-3884

By: *Galifon*