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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

IN RE:

Petition of SANLANDO UTILITIES
CORPORATION For A Limited
Proceeding to Implement Water
Conservation Plan in
Seminole County

ORIGINAL
FILE COPY

DOCKET NO.: 930256-WS
FILED: March 10, 1993

RESPONDENT ST. JOHNS RIVER WATER MANAGEMENT DISTRICT'S
RESPONSE TO NOTICE OF SUPPLEMENTAL AUTHORITY

COMES NOW, St. Johns River Water Management District (hereinafter "District")
and files this Response to Notice of Supplemental Authority filed by Sanlando Utilities
Corporation and the Florida Audubon Society and Friends of the Wekiva on June 16,

ACK 1994, and states as follows:

AFA _____
APP _____ 1. On May 25, 1994, HB 1305 was signed into law. The legislation amended
CAF chapters 367, 373 and 403, Florida Statutes. These changes have significant impact on
CMU _____
CTR the issues in this case.

EAG _____ 2. New section 367.0817(4), Florida Statutes, states that

LEG *O'Sullivan*
LIN *4* _____ "the commission shall allow the approved rates to be
OPC _____ implemented when the reuse project plan is approved or
RCH _____ when the project is placed in service. If the commission
SEC *1* _____ allows the rates to be implemented when the plan is
WAS *Rendall* _____ approved, the commission may order the utility to escrow
OTH _____ the resulting revenues until the project is placed into
service. Escrowed revenues shall be used exclusively for
the reuse project."

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FPSC-RECORDS/REPORTING

This change authorizes the Commission to approve the method of implementation of reuse plan as proposed by Sanlando Utilities, which previously was unclear authorization. *Federal Deposit Ins. Corp. v. Cherry, Bekaert and Holland*, 129 F.R.D. 188 (Middle District of Florida, 1989).

3. The Commission now has the clear authority to approve the method of implementation of this conservation plan - escrow of rates to be used for the reuse project. Given the other parts of the law that "the encouragement and promotion of water conservation and reuse of reclaimed water are **state objectives** and considered to be **in the public interest**," (see section 373.250, Florida Statutes), the Commission should approve the method of implementation.

4. Section 6 of HB 1305 states "this act shall take effect upon becoming law." The HB 1305 became law on May 25, 1994. The Commission must apply the law in effect at the time of decision, not when the case arose. *Fogg v. Southeast Bank, N.A.*, 473 So.2d 1352 (Fla. 4th DCA 1985).

5. The HB 1305 should apply to the pending case unless a manifest injustice would result. *Federal Deposit Ins. Corp.*, supra. The Intervenors do not suffer an injustice in that their rights are not abrogated by the enactment of the law. The effect is that one of their arguments, that the Commission does not have authority to allow Sanlando to implement the plan by escrowing funds to construct the reuse system, becomes moot.

6. The remaining issues in this case should be, in accordance with section 367.0817(3), Florida Statutes, 1) whether the projected costs are prudent and 2) whether the proposed rates are a) reasonable and b) in the public interest.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and 15 copies of the foregoing **RESPONDENT ST. JOHNS RIVER WATER MANAGEMENT DISTRICT RESPONSE TO NOTICE OF SUPPLEMENTAL AUTHORITY** were forwarded by United States Mail this 15th day of July 1994 to the Clerk of the Florida Public Service Commission and one true and correct copy was forwarded by United States Mail this 15th day of July 1994 to the following parties of record:

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