

ORIGINAL
FILE COPY

DOCKET NO.: 950495-WS - [Southern States Utilities, Inc. - Marion
Oaks Wastewater System]

WITNESS: Direct Testimony of Neal R. Schobert, Florida Department of
Environmental Protection, Appearing on Behalf of the Staff of the
Florida Public Service Commission

DATE FILED: February 26, 1996

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FPSC-RECORDS/REPORTING

DIRECT TESTIMONY OF NEAL R. SCHOBERT

1 |
2 | Q. Please state your name and business address.

3 | A. Neal R. Schobert, 3804 Coconut Palm Drive, Tampa, Florida 33619.

4 | Q. Please state a brief description of your educational background and
5 | experience.

6 | A. I received a Bachelor's Degree in Biology from Florida State University
7 | in 1976. I have worked in health and environmental capacities since
8 | graduation.

9 | Q. By whom are you presently employed?

10 | A. I am employed by the Florida Department of Environmental Protection
11 | (FDEP).

12 | Q. How long have you been employed with the FDEP and in what capacity?

13 | A. Eleven years. I inspect various types of facilities including water,
14 | wastewater treatment and laboratory facilities.

15 | Q. What are your general responsibilities at the FDEP?

16 | A. Compliance inspection, operational review, enforcement follow-up.

17 | Q. Are you familiar with the Southern States Utilities, Inc. wastewater
18 | systems located in Southwest District?

19 | A. Yes.

20 | Q. Were these systems inspected by you, or by FDEP staff under your
21 | supervision?

22 | A. Yes.

23 | Marion Oaks Wastewater System

24 | Q. Does the utility have current operating or construction permits from the
25 | FDEP for Marion Oaks Wastewater System (Marion Oaks)?

1 A. Yes.

2 Q. Please state the issuance dates and the expiration dates of the
3 operating or construction permits.

4 A. Operating permit DO 42-178431 expired May 23, 1995. Construction permit
5 DC 42-219274 issued April 1, 1993, has been modified three times since then.
6 There is no valid operating document.

7 Q. Are the plants in compliance with FDEP issued permits?

8 A. No. Permittee has elected to not build anoxic tanks to remove nitrogen.
9 Previous enforcement action required nitrate violations be addressed. Poor
10 operation of the existing facilities had apparently been the cause of these
11 violations, as detailed in Exhibits NRS-1, NRS-2 and NRS-3. Since then, they
12 have not recurred following FDEP enforcement action. Therefore, the request
13 to postpone major construction will be granted.

14 Q. Are the wastewater collection, treatment and disposal facilities
15 adequate to serve present customers based on permitted capacity?

16 A. Yes.

17 Q. Are the treatment and disposal facilities for Marion Oaks located in
18 accordance with Rule 62-600, Florida Administrative Code?

19 A. Yes.

20 Q. Has the FDEP required the utility to take any action so as to minimize
21 possible adverse effects resulting from odors, noise, aerosol drift or
22 lighting?

23 A. No.

24 Q. Do the pump stations and lift stations meet FDEP requirements with
25 respect to location, reliability and safety?

1 A. Yes.

2 Q. Does the utility have certified operators as required by Rule 61E12-41,
3 Florida Administrative Code?

4 A. Yes.

5 Q. Is the overall maintenance of the treatment, collection, and disposal
6 facilities satisfactory?

7 A. Yes.

8 Q. Does the facility meet the effluent disposal requirements of Rules
9 62-600 and 62-610, Florida Administrative Code?

10 A. Yes.

11 Q. Are the collection, treatment and disposal facilities in compliance with
12 all the other provisions of Chapter 62, Florida Administrative Code, not
13 previously mentioned?

14 A. Yes.

15 Q. Has Marion Oaks wastewater system been the subject of any FDEP
16 enforcement action within the past two years?

17 A. Yes. As described earlier with regard to nitrate violations.

18 Q. Do you have anything further to add?

19 A. No, I do not.

20

21

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Lawton Chiles
Governor

Florida Department of Environmental Protection

Southwest District
3804 Coconut Palm Drive
Tampa, Florida 33619
813-744-6100

Virginia B. Wetherell
Secretary

September 14, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Marion County

Mr. Raphael A. Terrero,
Manager Environmental Services
Southern States Utilities
1000 Color Place
Apopka, FL 32703

WARNING LETTER #WL93-0033DW42SWD

Subject: Marion Oaks Utilities Sewage Treatment Plant

Dear Mr. Terrero:

A review of the file for Marion Oaks Utilities sewage treatment plant indicates violations of Chapter 403, Florida Statutes, and the rules promulgated thereunder may exist at the above described facility. Department personnel observed the following:

Nitrate concentrations have exceeded permit limitation in February, June and July 1993.

Nitrate results were not reported as required in the permit for May 1992 and March 1992.

The facility has failed to plan and construct plant expansion based upon flow data from November 1991 to February 1992.

Numerous spills or discharges to the ground of inadequately treated effluent have occurred: seven incidents reported for 1992, eight incidents reported through August 1993.

It is a violation of Section 403.161(1)(b), Florida Statutes, for any facility, as a pollution source, to fail to operate in a manner consistent with the permit issued by the Department or in compliance with the Department rules and regulations. It is a violation of Rule 17-610.510, Florida Administrative Code (F.A.C.) for effluent nitrate concentration to exceed 12 mg/l. It is a violation of Rule 17-600.740(2)(a), F.A.C., to release wastewater effluent or residuals without proper treatment. It is a violation of Rule 17-600.405(4)(b)2., F.A.C., for a facility with three-month average daily flows in excess of 75% of permitted capacity to fail to submit an initial capacity analysis report no later than July 1, 1992.

Also, a facility that causes or allows the disposal of pollutant materials onto the ground may be in violation of Sections 376.302, and 403.088, Florida Statutes, and Rule 17-3.404, Florida Administrative Code, if the disposal results in a discharge to groundwater.

You are advised that any activity at your facility that may be contributing to violations of the above described statutes and rules should be ceased immediately. Operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties up to \$10,000 per violation per day pursuant to Sections 403.141 and 403.161, Florida Statutes. It is the Department's policy to seek civil penalties for the above described violations.

YOU ARE REQUESTED TO CONTACT MR. NEAL SCHOBERT of this office at (813) 744-6100, Extension 313 within 15 days of receipt of this Warning Letter to arrange a meeting with Department personnel to discuss the issues raised in this Warning Letter. You may wish to consult an attorney and to have the attorney attend the meeting with the Department.

PLEASE BE ADVISED that this Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. The purpose of this letter is to advise you of potential violations and to set up a meeting to discuss possible resolutions to any potential violations that may have occurred for which you may be responsible. If the Department determines that an enforcement proceeding should be initiated in this case, it may be initiated by issuing a Notice of Violation or by filing a judicial action in accordance with Section 403.121, Florida Statutes. If the Department issues a Notice of Violation, and you are named as a party, you will be informed of your rights to contest any determination made by the Department in the Notice of Violation. The Department can also resolve any violation through entry into a Consent Order.

Sincerely,



Richard D. Garrity, Ph.D.
Director of District Management
Southwest District

cc: Marion County PHU
Al McLaurin, FDEP

FROM

06.17.1994 17:15

P. 2



Jawton Chiles
Governor

Florida Department of Environmental Protection

Southwest District
3804 Coconut Palm Drive
Tampa, Florida 33619
813-744-6100

RECEIVED
JUN 21 1994
Department of Environmental Protection
BY SOUTHWEST DISTRICT

June 17, 1994

Mr. Bert Phillips, President
Southern States Utilities, Inc.
1000 Color Place
Apopka, FL 32703

Re: Proposed Settlement by Short Form Consent Order in Case
of Southern States Utilities, Inc.
(Marion Oaks Subdivision WWTP),
OGC File No. 93-4503

Dear Mr. Phillips:

The purpose of this letter is to complete the settlement of the alleged violation(s) previously identified by the Department of Environmental Protection ("DEP") in Warning Letter No. WL93-0033DW42SWD dated September 14, 1993, which is attached, as well as any other domestic wastewater violations alleged to have occurred up to the date of June 14, 1994, excluding any alleged violations unknown by DEP. No corrective actions are required to bring your facility into compliance. However, you must pay to the Department the amount of \$14,500.00 in civil penalties to complete settlement of the violations described in the attached Warning Letter, along with \$500.00 to reimburse DEP's costs, for a total of \$15,000.00. This payment must be made to "The Department of Environmental Protection" by certified check or money order and shall include thereon the OGC number assigned above and the notation "Pollution Recovery Fund". The payment shall be sent to the Department of Environmental Protection, Southwest District Office, 3804 Coconut Palm Drive, Tampa, Florida 33619-8318 within ten days of your signing this letter.

Your signing of this letter where indicated at the end of page two of this letter constitutes your acceptance of DEP's offer to settle this case on these terms. If you sign this letter, please return it to DEP at the address above. DEP will then countersign the letter and file it with the Clerk of the DEP. When the signed letter is filed with the Clerk, the letter shall constitute a Consent Order, which is final agency action of the DEP, the terms and conditions of which may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this letter once signed by you and entered by the DEP Clerk shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

FROM

06.17.199 17:15

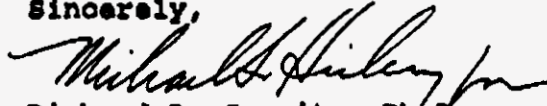
P. 3

Marion Oaks Subdivision WWT
OGC File No. 93-4503
Page 2

By countersigning this settlement offer, DEP waives its right to seek judicial imposition of damages, costs and expenses, or civil penalties for the violations described above.

By accepting this settlement offer, you waive your right to an administrative hearing to contest this settlement pursuant to Section 120.57, Florida Statutes, and your right to appeal this settlement pursuant to Section 120.69, Florida Statutes. This offer to settle is open until June 21, 1994 or until DEP otherwise withdraws the offer. If you do not sign and return this letter to the Department at the Southwest District address given above by this date, the case will be referred to the DEP's Office of General Counsel with a recommendation that formal enforcement action be taken against you. None of your rights or substantial interests are determined by this letter unless you sign it and it is filed with the DEP Clerk.

Sincerely,




Richard D. Garrity, Ph.D.
Director of District Management
Southwest District

I ACCEPT THE TERMS OF THIS SETTLEMENT OFFER.

For Southern States
Utilities, Inc.:

By: *Karla Ann Teasley*
for Bert Phillips, Vice President
President,
Southern States
Utilities, Inc.

For the DEP:


Richard D. Garrity, Ph.D.
Director of District Management
State of Florida Department
of Environmental Protection

ENTERED this 21 day of June 1994 in Tampa, Florida.

Attachments

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to S120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Harboud L. Liggins 06-21-94
Clerk Date



Department of Environmental Protection

Lawton Chiles
Governor

Southwest District
3804 Coconut Palm Drive
Tampa, Florida 33619

Virginia B. Wetherell
Secretary

June 21, 1994

Mr. David Townsend
Marion County Public Health Unit
P. O. Box 2408
Ocala, FL 34478

Re: Marion Oaks Subdivision Wastewater Treatment Plant
Marion County

File
Dear Mr. Townsend:

This is to advise you that the Department has resolved its enforcement case against the referenced facility. A consent order (OGC File No. 93-4503 enclosed) was executed between Southern States Utilities and the Department on this date. As the consent order states, no further corrective actions are required of the facility at this time. It is our recommendation that additional flows to the facility may again be approved.

Should you have any questions, please contact Mr. Neal Schobert at 813/744-6100, extension 313.

Sincerely,

A handwritten signature in cursive script that reads "Thomas Gucciardo".

Thomas Gucciardo
Environmental Manager
Compliance/Enforcement
Domestic Wastewater Section

Enclosure

cc: Carlyn Kowalsky, Southern States Utilities