

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of : DOCKET NO.
:
Application for a rate increase and : 950495-WS
increase in service availability charges:
by SOUTHERN STATES UTILITIES, INC. for :
Orange-Osceola Utilities, Inc. in :
Osceola County, and in Bradford, Brevard:
Charlotte, Citrus, Clay, Collier, Duval, :
Highlands, Lake, Lee, Marion, Martin, :
Nassau, Orange, Osceola, Pasco, Putnam, :
Seminole, St. Johns, St. Lucie, Volusia :
and Washington Counties. :

SIXTH DAY - MID-MORNING SESSION

VOLUME 22

Pages 2318 through 2416

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN SUSAN F. CLARK
COMMISSIONER J. TERRY DEASON
COMMISSIONER JULIA L. JOHNSON
COMMISSIONER DIANE K. KIESLING
COMMISSIONER JOE GARCIA

DATE: Monday, May 6, 1996

TIME: Commenced at 9:00 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR
Chief, Bureau of Reporting
(904) 413-6732

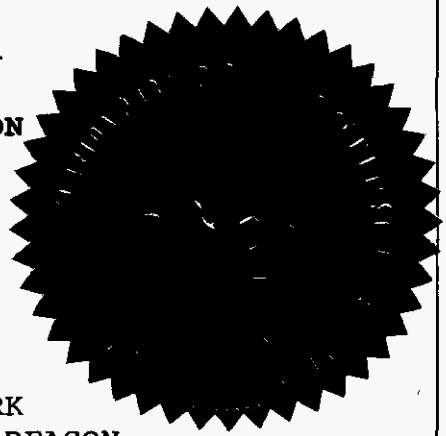
APPEARANCES:

(As heretofore noted.)

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 950495 MAY-6 8

FPSC-RECORDS/REPORTING



WITNESSES

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	
	NAME																								
	CLARENCE ANDERSON																								
	Direct Examination By Mr. Pellegrini					2321																			
	Prefiled Direct Testimony Inserted					2325																			
	Cross Examination By Mr. Twomey					2354																			
	Cross Examination By Mr. Armstrong					2362																			
	Redirect Examination																								
	By Mr. Pellegrini					2368																			
	SCOTT A. BREITENSTEIN																								
	Direct Examination By Mr. Pellegrini					2373																			
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	DEBORAH de PAIVA																								
	Direct Examination By Mr. Pellegrini					2400																			
	Prefiled Direct Testimony Inserted					2402																			
	Cross Examination By Mr. Twomey					2411																			
	Cross Examination By Mr. Armstrong					2415																			

EXHIBITS

18	19	20	21	22	23	24	25
	NUMBER					ID.	ADMTD.
	166	(Anderson) CAA-1,2,3				2324	2372
	167	(Anderson) May 1, '96 memo from Anderson to Pellegrini				2324	2372
	168	(Breitenstein) SAB-1				2392	2400

P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 21.)

4 CHAIRMAN CLARK: Let me inquire. Are we
5 ready to go back to the record and begin with the
6 testimony of the DEP witnesses in Orlando?

7 MR. PELLEGRINI: Yes, we are, Chairman
8 Clark.

9 CHAIRMAN CLARK: Mr. Pellegrini, just so I'm
10 sure, would you indicate to me the witnesses that will
11 be appearing in Orlando.

12 MR. PELLEGRINI: Mr. Anderson.
13 Scott Breitenstein and Ms. de Paiva.

14 CHAIRMAN CLARK: I'd like to ask you at this
15 point to stand and raise your right hands so I can
16 swear you in, Mr. Anderson, Mr. Breitenstein and
17 Ms. de Paiva.

18 (Witnesses sworn collectively.)

19 CHAIRMAN CLARK: Mr. Pellegrini, do we start
20 with Mr. Anderson?

21 MR. PELLEGRINI: Yes. We do.
22
23
24
25

CLARENCE ANDERSON

1
2 was called as a witness via teleconferencing on behalf
3 of the Staff of the Florida Public Service Commission
4 and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

5
6 BY MR. PELLEGRINI:

7 Q Mr. Anderson, can you hear me clearly?

8 A Hello. Yes.

9 Q Mr. Anderson, can you hear me clearly?

10 A Not very well.

11 Q Can you hear me more clearly now?

12 A Yes.

13 Q Mr. Anderson, please state your name and
14 business affiliation for the record?

15 A My name is Clarence C. Anderson, Jr. I work
16 for the Department of Environmental Protection in the
17 Central District in Orlando.

18 Q Mr. Anderson, did you prefile testimony in
19 this case consisting of 29 pages?

20 A Yes, sir.

21 Q I distributed, as a matter of courtesy,
22 copies of Mr. Anderson's changes to his prefiled
23 testimony. Mr. Anderson, do you have changes or
24 corrections to your testimony at this time?

25 A Yes, sir. I do.

1 Q Would you please describe those at this
2 time.

3 A I made -- I made additions or amendments to
4 the Enterprise Utilities, and to -- I did a rebuttal
5 to Chuluota wastewater, and I made some amendment to
6 my Deltona Lakes testimony.

7 Q Would you describe those changes,
8 Mr. Anderson?

9 A The Enterprise Utility, I said that we had
10 sent out a revised consent order for corrective action
11 for the Utility, and that we had received a response
12 to a previous request that Southern States was doing
13 to prepare papers to transfer the receivership of the
14 Utility if they didn't have the economic benefit to
15 run it.

16 Chuluota, I did a rebuttal on the -- I had
17 more or less indicated that it hydraulically
18 overloaded in my testimony, and I changed that to say,
19 particularly in a engineering design type of hydraulic
20 overload but more or less in a -- compared to the
21 normal flows through the plant.

22 And in Deltona Lakes I mentioned that we had
23 received -- we had executed a consent order with them
24 to get a wet weather discharge and also that we were
25 in the process of drafting a letter of more violation.

1 I think that about covers what the changes are.

2 Q With the changes and corrections you've made
3 in your testimony, if I were to ask you the same
4 questions today would your answers be substantially
5 the same?

6 A Yes, sir.

7 MR. PELLEGRINI: Madam Chairman, may I have
8 Mr. Anderson's testimony as changed inserted into the
9 record as though read.

10 CHAIRMAN CLARK: Mr. Pellegrini, I'm having
11 a little difficulty in deciding how to do this.

12 As I understood it, he is making, in effect,
13 an amendment to his testimony based on the memorandum
14 you have given us.

15 MR. PELLEGRINI: That's correct.

16 CHAIRMAN CLARK: What I think we probably
17 ought to do is enter in the record his prefiled direct
18 testimony, and then identify an exhibit, composite
19 exhibit, the ones identified to -- attached to his
20 direct testimony, and then identify separately as an
21 exhibit these later amendments.

22 MR. PELLEGRINI: Certainly.

23 CHAIRMAN CLARK: With that, the prefiled
24 direct testimony of Clarence C. Anderson will be
25 inserted in the record as though read.

1 MR. PELLEGRINI: Mr. Anderson's testimony?

2 CHAIRMAN CLARK: I said identify the exhibit
3 and that will be our second exhibit.

4 Q (By Mr. Pellegrini) Mr. Anderson, does your
5 testimony include exhibits?

6 A Yes, sir, it does.

7 Q Are these exhibits CCA-1, 2 and 3?

8 A Yes, sir.

9 Q Do you have corrections to these exhibits?

10 A No, sir.

11 MR. PELLEGRINI: Madam Chairman, may we have
12 CCA-1, 2, 3 marked for identification?

13 CHAIRMAN CLARK: They will be marked as
14 Exhibit 166.

15 MR. PELLEGRINI: And that will include --

16 CHAIRMAN CLARK: No. Then we will mark as
17 Exhibit 167 the amendment which consists of a
18 memorandum to Charlie Pellegrini from Clarence
19 Anderson, dated May 1st, 1996, and that consists of
20 four pages.

21 CHAIRMAN CLARK: That will be marked as
22 Exhibit 167.

23 (Exhibit Nos. 166 and 167 marked for
24 identification.)

25

1 DIRECT TESTIMONY OF CLARENCE C. ANDERSON, JR.

2 Q. Please state your name and business address.

3 A. Clarence C. Anderson, Jr., Florida Department of Environmental
4 Protection, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803.

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

7 A. I have a B.S. in Chemistry and Mathematics. I worked for a consulting
8 engineer for 13 years and as a Chemist for a wastewater service company. I
9 am a licensed wastewater operator.

10 Q. By whom are you presently employed?

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

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

14 A. I have been employed by FDEP for six and a half years as a wastewater
15 and industrial waste inspector.

16 Q. What are your general responsibilities at the FDEP?

17 A. My responsibility is domestic waste enforcement, handling enforcement
18 cases, warning letters and consent orders. I issue expiring permit letters.
19 I am responsible for the facility/permit database updates and entries.

20 Q. Are you familiar with the Southern States Utilities, Inc. wastewater
21 systems located in the Central District?

22 A. Yes.

23 Q. Were these systems inspected by you, or by FDEP staff?

24 A. I reviewed the files for the referenced facilities and consulted with
25 the inspector that conducted the last inspection.

1 South Forty Wastewater System

2 Q. Does the utility have current operating or construction permits from the
3 FDEP for South Forty Wastewater System (South Forty)?

4 A. Yes.

5 Q. Please state the issuance dates and the expiration dates of the
6 operating or construction permits.

7 A. The utility has permit FLA 010720, effective August 30, 1995 - August
8 15, 2000.

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

10 A. Yes.

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

13 A. Yes.

14 Q. Are the treatment and disposal facilities located in accordance with
15 Rule 62-600, Florida Administrative Code?

16 A. Yes.

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

20 A. No.

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

23 A. Yes.

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

1 A. Yes.

2 Q. Is the overall maintenance of the treatment, collection, and disposal
3 facilities satisfactory?

4 A. Yes.

5 Q. Does the facility meet the effluent disposal requirements of Rules
6 62-600 and 62-610, Florida Administrative Code?

7 A. Yes.

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

11 A. Yes.

12 Q. Has South Forty wastewater system been the subject of any Department of
13 Environmental Protection enforcement action within the past two years?

14 A. No.

15 Chuluota Wastewater System

16 Q. Does the utility have current operating or construction permits from the
17 FDEP for Chuluota Wastewater System (Chuluota)?

18 A. Yes.

19 Q. Please state the issuance dates and the expiration dates of the
20 operating or construction permits.

21 A. The utility has permit DO 59-187652, effective July 7, 1991 - February
22 16, 1996. We are processing a renewal (file 276133).

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

24 A. No. The utility failed to submit monthly operating reports (MORs) and
25 ground water (GW) monitoring data in a timely manner. SSU submitted MORs and

1 | GW monitoring data in response to a noncompliance letter. In our latest
2 | inspection, October 9, 1995, we noted extreme infiltration, which was causing
3 | hydraulic overload.

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

6 | A. Yes.

7 | Q. Are the treatment and disposal facilities located in accordance with
8 | Rule 62-600, Florida Administrative Code?

9 | A. Yes.

10 | Q. Has the FDEP required the utility to take any action so as to minimize
11 | possible adverse effects resulting from odors, noise, aerosol drift or
12 | lighting?

13 | A. No.

14 | Q. Do the pump stations and lift stations meet FDEP requirements with
15 | respect to location, reliability and safety?

16 | A. Yes.

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

19 | A. Yes.

20 | Q. Is the overall maintenance of the treatment, collection, and disposal
21 | facilities satisfactory?

22 | A. Yes.

23 | Q. Does the facility meet the effluent disposal requirements of Rules
24 | 62-600 and 62-610, Florida Administrative Code?

25 | A. Yes.

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

4 A. Yes.

5 Q. Has Chuluota wastewater system been the subject of any FDEP enforcement
6 action within the past two years?

7 A. No.

8 Florida Central/Commerce Park Wastewater System

9 Q. Does the utility have current operating or construction permits from the
10 FDEP for Florida Central/Commerce Park Wastewater System (Florida
11 Central/Commerce Park)?

12 A. Yes.

13 Q. Please state the issuance dates and the expiration dates of the
14 operating or construction permits.

15 A. The utility has permit DO 59-195077, effective May 3, 1991 - May 1,
16 1996.

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

18 A. Yes.

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

21 A. Yes.

22 Q. Are the treatment and disposal facilities located in accordance with
23 Rule 62-600, Florida Administrative Code?

24 A. Yes.

25 Q. Has the FDEP required the utility to take any action so as to minimize

1 possible adverse effects resulting from odors, noise, aerosol drift or
2 lighting?

3 A. No.

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

6 A. Yes.

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

9 A. Yes.

10 Q. Is the overall maintenance of the treatment, collection, and disposal
11 facilities satisfactory?

12 A. Yes.

13 Q. Does the facility meet the effluent disposal requirements of Rules
14 62-600 and 62-610, Florida Administrative Code?

15 A. Yes.

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

19 A. Yes.

20 Q. Has Florida Central/Commerce Park wastewater system been the subject of
21 any Department of Environmental Protection enforcement action within the past
22 two years?

23 A. No.

24 Holiday Haven Wastewater System

25 Q. Does the utility have current operating or construction permits from the

1 FDEP for Holiday Haven Wastewater System (Holiday Haven)?

2 A. Yes.

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

5 A. The utility has permit D0 35-223319, effective March 31, 1993 - July 30,
6 1995. We are processing a renewal (file 269985).

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

8 A. Yes.

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

11 A. Yes.

12 Q. Are the treatment and disposal facilities located in accordance with
13 Rule 62-600, Florida Administrative Code?

14 A. Yes.

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

18 A. No.

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

21 A. Yes.

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

24 A. Yes.

25 Q. Is the overall maintenance of the treatment, collection, and disposal

1 facilities satisfactory?

2 A. Yes.

3 Q. Does the facility meet the effluent disposal requirements of Rules
4 62-600 and 62-610, Florida Administrative Code?

5 A. Yes.

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

9 A. Yes.

10 Q. Has Holiday Haven wastewater system been the subject of any FDEP
11 enforcement action within the past two years?

12 A. No.

13 Morningview Wastewater System

14 Q. Does the utility have current operating or construction permits from the
15 FDEP for Morningview Wastewater System (Morningview)?

16 A. Yes.

17 Q. Please state the issuance dates and the expiration dates of the
18 operating or construction permits.

19 A. The utility has permit DO 35-179425, effective July 12, 1990 - July 1,
20 1995. We are processing a renewal (file 269986).

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

22 A. Yes.

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

25 A. Yes.

- 1 Q. Are the treatment and disposal facilities located in accordance with
2 Rule 62-600, Florida Administrative Code?
- 3 A. Yes.
- 4 Q. Has the FDEP required the utility to take any action so as to minimize
5 possible adverse effects resulting from odors, noise, aerosol drift or
6 lighting?
- 7 A. No.
- 8 Q. Do the pump stations and lift stations meet FDEP requirements with
9 respect to location, reliability and safety?
- 10 A. Yes.
- 11 Q. Does the utility have certified operators as required by Rule 61E12-41,
12 Florida Administrative Code?
- 13 A. Yes.
- 14 Q. Is the overall maintenance of the treatment, collection, and disposal
15 facilities satisfactory?
- 16 A. Yes.
- 17 Q. Does the facility meet the effluent disposal requirements of Rules
18 62-600 and 62-610, Florida Administrative Code?
- 19 A. Yes.
- 20 Q. Are the collection, treatment and disposal facilities in compliance with
21 all the other provisions of Chapter 62, Florida Administrative Code, not
22 previously mentioned?
- 23 A. Yes.
- 24 Q. Has Morningview wastewater system been the subject of any FDEP
25 enforcement action within the past two years?

- 1 A. No.
- 2 Sunshine Parkway Wastewater System
- 3 Q. Does the utility have current operating or construction permits from the
4 FDEP for Sunshine Parkway Wastewater System (Sunshine Parkway)?
- 5 A. Yes.
- 6 Q. Please state the issuance dates and the expiration dates of the
7 operating or construction permits.
- 8 A. The utility has permit DO 35-220437, effective September 22, 1993 -
9 September 8, 1998, and (NPDES) FL 0041017, effective July 5, 1994 - June 30,
10 1999. These permits have been consolidated in accordance with Rule 62-620,
11 Florida Administrative Code, and will expire September 8, 1998.
- 12 Q. Are the plants in compliance with FDEP issued permits?
- 13 A. Yes.
- 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 located in accordance with
18 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 Sunshine Parkway wastewater system been the subject of any FDEP
16 enforcement action within the past two years?

17 A. No.

18 Venetian Village Wastewater System

19 Q. Does the utility have current operating or construction permits from the
20 FDEP for Venetian Village Wastewater System (Venetian Village)?

21 A. Yes.

22 Q. Please state the issuance dates and the expiration dates of the
23 operating or construction permits.

24 A. The utility has permit DO 35-247618, effective October 31, 1994 -
25 October 20, 1999.

- 1 Q. Are the plants in compliance with FDEP issued permits?
- 2 A. Yes.
- 3 Q. Are the wastewater collection, treatment and disposal facilities
- 4 adequate to serve present customers based on permitted capacity?
- 5 A. Yes.
- 6 Q. Are the treatment and disposal facilities located in accordance with
- 7 Rule 62-600, Florida Administrative Code?
- 8 A. Yes.
- 9 Q. Has the FDEP required the utility to take any action so as to minimize
- 10 possible adverse effects resulting from odors, noise, aerosol drift or
- 11 lighting?
- 12 A. No.
- 13 Q. Do the pump stations and lift stations meet FDEP requirements with
- 14 respect to location, reliability and safety?
- 15 A. Yes.
- 16 Q. Does the utility have certified operators as required by Rule 61E12-41,
- 17 Florida Administrative Code?
- 18 A. Yes.
- 19 Q. Is the overall maintenance of the treatment, collection, and disposal
- 20 facilities satisfactory?
- 21 A. Yes.
- 22 Q. Does the facility meet the effluent disposal requirements of Rules
- 23 62-600 and 62-610, Florida Administrative Code?
- 24 A. Yes.
- 25 Q. Are the collection, treatment and disposal facilities in compliance with

1 | all the other provisions of Chapter 62, Florida Administrative Code, not
2 | previously mentioned?

3 | A. Yes.

4 | Q. Has Venetian Village wastewater system been the subject of any FDEP
5 | enforcement action within the past two years?

6 | A. No.

7 | Enterprise Utilities Wastewater System

8 | Q. Does the utility have current operating or construction permits from the
9 | FDEP for Enterprise Utilities Wastewater System (Enterprise Utilities)?

10 | A. Yes.

11 | Q. Please state the issuance dates and the expiration dates of the
12 | operating or construction permits.

13 | A. The utility has permit DO 64-221990, effective September 7, 1993 -
14 | August 28, 1998.

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

16 | A. No. The utility needs to clean vegetation from the percolation pond.
17 | It may need to remove some accumulated sand from the pond also. The
18 | sprayfield is overgrown with vegetation and needs to be maintained regularly.

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

21 | A. No. The sprayfield disposal site is inadequate. It is in a low area
22 | and percolation is marginal. The utility will investigate the area for other
23 | sites. This problem would have been eliminated with connection to Deltona
24 | Lakes System. Infiltration is a problem in the collection system and
25 | contributes to the plant and disposal problems.

1 Q. Are the treatment and disposal facilities located in accordance with
2 Rule 62-600, Florida Administrative Code?

3 A. Yes.

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

7 A. No.

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

10 A. Yes.

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

13 A. Yes.

14 Q. Is the overall maintenance of the treatment, collection, and disposal
15 facilities satisfactory?

16 A. Yes.

17 Q. Does the facility meet the effluent disposal requirements of Rules
18 62-600 and 62-610, Florida Administrative Code?

19 A. Yes.

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

23 A. Yes.

24 Q. Has Enterprise Utilities wastewater system been the subject of any
25 Department of Environmental Protection enforcement action within the past two

1 | years?

2 | A. Yes. The utility modified its collection system without FDEP approval,
3 | and failed to notify of abnormal event. FDEP has proposed a consent order
4 | requiring connection of the plant to Deltona Lakes and a substantial civil
5 | penalty. By letter dated October 11, 1995, the utility stated it cannot
6 | connect the plant to Deltona Lakes System due to financial restraints. That
7 | information is detailed in Exhibit CCA-1. 166

8 | **Jungle Den Wastewater System**

9 | Q. Does the utility have current operating or construction permits from the
10 | FDEP for Jungle Den Wastewater System (Jungle Den)?

11 | A. Yes.

12 | Q. Please state the issuance dates and the expiration dates of the
13 | operating or construction permits.

14 | A. The utility has permit FLA 011261, effective September 25, 1995 -
15 | September 20, 2000.

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

17 | A. Yes.

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

20 | A. Yes.

21 | Q. Are the treatment and disposal facilities located in accordance with
22 | Rule 62-600, Florida Administrative Code?

23 | A. Yes.

24 | Q. Has the FDEP required the utility to take any action so as to minimize
25 | possible adverse effects resulting from odors, noise, aerosol drift or

1 | lighting?

2 | A. No.

3 | Q. Do the pump stations and lift stations meet FDEP requirements with
4 | respect to location, reliability and safety?

5 | A. Yes.

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

8 | A. Yes.

9 | Q. Is the overall maintenance of the treatment, collection, and disposal
10 | facilities satisfactory?

11 | A. Yes.

12 | Q. Does the facility meet the effluent disposal requirements of Rules
13 | 62-600 and 62-610, Florida Administrative Code?

14 | A. Yes.

15 | Q. Are the collection, treatment and disposal facilities in compliance with
16 | all the other provisions of Chapter 62, Florida Administrative Code, not
17 | previously mentioned?

18 | A. Yes.

19 | Q. Has Jungle Den wastewater system been the subject of any Department of
20 | Environmental Protection enforcement action within the past two years?

21 | A. No.

22 | Sugar Mill Wastewater System

23 | Q. Does the utility have current operating or construction permits from the
24 | FDEP for Sugar Mill Wastewater System (Sugar Mill)?

25 | A. Yes.

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

3 A. The utility has permit DO 64-213929, effective February 22, 1993 -
4 February 8, 1998.

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

6 A. Yes.

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

9 A. Yes.

10 Q. Are the treatment and disposal facilities located in accordance with
11 Rule 62-600, Florida Administrative Code?

12 A. Yes.

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

16 A. No.

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

19 A. Yes.

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

22 A. Yes.

23 Q. Is the overall maintenance of the treatment, collection, and disposal
24 facilities satisfactory?

25 A. Yes.

1 Q. Does the facility meet the effluent disposal requirements of Rules
2 62-600 and 62-610, Florida Administrative Code?

3 A. Yes.

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

7 A. Yes.

8 Q. Has Sugar Mill wastewater system been the subject of any FDEP
9 enforcement action within the past two years?

10 A. No.

11 **Buenaventura Lakes Wastewater System**

12 Note: SSU is not the owner/operator of this facility according to FDEP
13 records. SSU is anticipating purchasing the facility when the new permit is
14 issued. The current owner is Orange-Osceola Utilities.

15 Q. Does the utility have current operating or construction permits from the
16 FDEP for Buenaventura Lakes Wastewater System (Buenaventura Lakes)?

17 A. Yes.

18 Q. Please state the issuance dates and the expiration dates of the
19 operating or construction permits.

20 A. The utility has permits DO 49-216509, effective March 11, 1993 -
21 December 1, 1995; DO 49-174229, effective June 19, 1990 - June 1, 1995; and
22 NPDES FL 0039446, effective July 1, 1992 - April 30, 1997. We are processing
23 a renewal (file 268476). All permits have been consolidated; expired on June
24 1, 1995.

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

1 A. No. During an inspection conducted on December 22, 1994, no certified
2 operator was present at the plant. A quarterly monitoring well report was not
3 submitted. Effluent was being discharged without an operator present on-site.
4 The permittee has corrected these deficiencies per letter dated January 26,
5 1995, renewed January 30, 1995.

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

8 A. Yes.

9 Q. Are the treatment and disposal facilities located in accordance with
10 Rule 62-600, Florida Administrative Code?

11 A. Yes.

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

15 A. No.

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

18 A. Yes.

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

21 A. Yes.

22 Q. Is the overall maintenance of the treatment, collection, and disposal
23 facilities satisfactory?

24 A. Yes.

25 Q. Does the facility meet the effluent disposal requirements of Rules

1 | 62-600 and 62-610, Florida Administrative Code?

2 | A. Yes.

3 | Q. Are the collection, treatment and disposal facilities in compliance with
4 | all the other provisions of Chapter 62, Florida Administrative Code, not
5 | previously mentioned?

6 | A. Yes.

7 | Q. Has Buenaventura Lakes wastewater system been the subject of any FDEP
8 | enforcement action within the past two years?

9 | A. No.

10 | University Shores Wastewater System

11 | Q. Does the utility have current operating or construction permits from the
12 | FDEP for University Shores Wastewater System (University Shores)?

13 | A. Yes.

14 | Q. Please state the issuance dates and the expiration dates of the
15 | operating or construction permits.

16 | A. The utility has permits Stp. #1 AWT DO 48-187714, effective May 22, 1991
17 | - May 10, 1996; NPDES FL 0024856, effective March 7, 1994 - March 28, 1999;
18 | and Stp. #2 DO 48-193001, effective August 28, 1991 - August 16, 1996. The
19 | permits have been consolidated in accordance with Rule 62-620, Florida
20 | Administrative Code, and all expire on May 10, 1996.

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

22 | A. No. In an inspection conducted March 24, 1995, it was noted that: Stp.
23 | #1 - flow meter needs calibrating, solids in clarifier and contact chamber
24 | effluent, ponding of drainfield, exceeding plant and disposal area capacities,
25 | MOR not submitted and ground water report not submitted. The utility made a

1 | satisfactory response dated April 26, 1995, and received May 10, 1995. It was
2 | further noted that: Stp. #2 - flows to plant and disposal sites exceed
3 | permitted capacities. Corrective actions for monitoring wells (MW) #5 and #8
4 | required. Disposal site capacity study will be submitted October 25, 1995.
5 | MWs #5 and #8 will be replaced by November 15, 1995. The utility provided
6 | submittal and replacement dates in its response dated April 26, 1995, received
7 | May 10, 1995.

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

10 | A. Yes.

11 | Q. Are the treatment and disposal facilities located in accordance with
12 | Rule 62-600, Florida Administrative Code?

13 | A. Yes.

14 | Q. Has the FDEP required the utility to take any action so as to minimize
15 | possible adverse effects resulting from odors, noise, aerosol drift or
16 | lighting?

17 | A. No.

18 | Q. Do the pump stations and lift stations meet FDEP requirements with
19 | respect to location, reliability and safety?

20 | A. Yes.

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

23 | A. Yes.

24 | Q. Is the overall maintenance of the treatment, collection, and disposal
25 | facilities satisfactory?

1 A. Yes.

2 Q. Does the facility meet the effluent disposal requirements of Rules
3 62-600 and 62-610, Florida Administrative Code?

4 A. Yes.

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

8 A. Yes.

9 Q. Has University Shores wastewater system been the subject of any FDEP
10 enforcement action within the past two years?

11 A. No.

12 Citrus Park Wastewater System

13 Q. Does the utility have current operating or construction permits from the
14 FDEP for Citrus Park Wastewater System (Citrus Park)?

15 A. Yes.

16 Q. Please state the issuance dates and the expiration dates of the
17 operating or construction permits.

18 A. The utility has permit DO 42-249037, effective April 19, 1995 - April
19 13, 2000.

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

21 A. Yes.

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

24 A. Yes.

25 Q. Are the treatment and disposal facilities located in accordance with

- 1 | Rule 62-600, Florida Administrative Code?
- 2 | A. Yes.
- 3 | Q. Has the FDEP required the utility to take any action so as to minimize
- 4 | possible adverse effects resulting from odors, noise, aerosol drift or
- 5 | lighting?
- 6 | A. No.
- 7 | Q. Do the pump stations and lift stations meet FDEP requirements with
- 8 | respect to location, reliability and safety?
- 9 | A. Yes.
- 10 | Q. Does the utility have certified operators as required by Rule 61E12-41,
- 11 | Florida Administrative Code?
- 12 | A. Yes.
- 13 | Q. Is the overall maintenance of the treatment, collection, and disposal
- 14 | facilities satisfactory?
- 15 | A. Yes.
- 16 | Q. Does the facility meet the effluent disposal requirements of Rules
- 17 | 62-600 and 62-610, Florida Administrative Code?
- 18 | A. Yes.
- 19 | Q. Are the collection, treatment and disposal facilities in compliance with
- 20 | all the other provisions of Chapter 62, Florida Administrative Code, not
- 21 | previously mentioned?
- 22 | A. Yes.
- 23 | Q. Has Citrus Park wastewater system been the subject of any FDEP
- 24 | enforcement action within the past two years?
- 25 | A. No.

Valencia Terrace Wastewater System

1 |
2 | Note: SSU has owned this facility since May 17, 1995, according to FDEP
3 | records.

4 | Q. Does the utility have current operating or construction permits from the
5 | FDEP for Valencia Terrace Wastewater System (Valencia Terrace)?

6 | A. Yes.

7 | Q. Please state the issuance dates and the expiration dates of the
8 | operating or construction permits.

9 | A. The utility has permit D0 35-179459, effective August 3, 1990 - July 30,
10 | 1995. A renewal is being processed (file 274994).

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

12 | A. Yes.

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

15 | A. Yes.

16 | Q. Are the treatment and disposal facilities located in accordance with
17 | Rule 62-600, Florida Administrative Code?

18 | A. Yes.

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

22 | A. No.

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

25 | A. Yes.

- 1 Q. Does the utility have certified operators as required by Rule 61E12-41,
2 Florida Administrative Code?
- 3 A. Yes.
- 4 Q. Is the overall maintenance of the treatment, collection, and disposal
5 facilities satisfactory?
- 6 A. Yes.
- 7 Q. Does the facility meet the effluent disposal requirements of Rules
8 62-600 and 62-610, Florida Administrative Code?
- 9 A. Yes.
- 10 Q. Are the collection, treatment and disposal facilities in compliance with
11 all the other provisions of Chapter 62, Florida Administrative Code, not
12 previously mentioned?
- 13 A. Yes.
- 14 Q. Has Valencia Terrace wastewater system been the subject of any FDEP
15 enforcement action within the past two years?
- 16 A. Yes. Enforcement action was taken against the former owner for
17 modification of a collection system without approval from FDEP and failure to
18 notify FDEP of an abnormal event, as detailed in Exhibit CCA-2. 166
- 19 Salt Springs Wastewater System
- 20 Q. Does the utility have current operating or construction permits from the
21 FDEP for Salt Springs Wastewater System (Salt Springs)?
- 22 A. Yes.
- 23 Q. Please state the issuance dates and the expiration dates of the
24 operating or construction permits.
- 25 A. The utility has permit DO 42-235710, effective August 26, 1993 - August

1 | 18, 1998.

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

3 | A. Yes.

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

6 | A. Yes.

7 | Q. Are the treatment and disposal facilities located in accordance with
8 | Rule 62-600, Florida Administrative Code?

9 | A. Yes.

10 | Q. Has the FDEP required the utility to take any action so as to minimize
11 | possible adverse effects resulting from odors, noise, aerosol drift or
12 | lighting?

13 | A. No. The FDEP has received noise or odor complaints on occasion. SSU
14 | has resolved these issues on its own initiative.

15 | Q. Do the pump stations and lift stations meet FDEP requirements with
16 | respect to location, reliability and safety?

17 | A. Yes.

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

20 | A. Yes.

21 | Q. Is the overall maintenance of the treatment, collection, and disposal
22 | facilities satisfactory?

23 | A. Yes.

24 | Q. Does the facility meet the effluent disposal requirements of Rules
25 | 62-600 and 62-610, Florida Administrative Code?

1 | A. Yes.

2 | Q. Are the collection, treatment and disposal facilities in compliance with
3 | all the other provisions of Chapter 62, Florida Administrative Code, not
4 | previously mentioned?

5 | A. Yes.

6 | Q. Has Salt Springs wastewater system been the subject of any FDEP
7 | enforcement action within the past two years?

8 | A. No.

9 |

10 | Deltona Lakes Wastewater System

11 | Q. Does the utility have current operating or construction permits from the
12 | FDEP for Deltona Lakes Wastewater System (Deltona Lakes)?

13 | A. Yes.

14 | Q. Please state the issuance dates and the expiration dates of the
15 | operating or construction permits.

16 | A. The utility has permits DO 64-196923, effective January 17, 1992 -
17 | January 7, 1997, and NPDES FL 0024546, effective April 27, 1995 - April 30,
18 | 2000. A wet weather discharge is being processed (file 267505). The permits
19 | have been consolidated in accordance with Rule 62-620, Florida Administrative
20 | Code, and will expire January 7, 1997.

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

22 | A. No. There has been unauthorized discharge to surface waters. A permit
23 | is pending.

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

1 A. Yes.

2 Q. Are the treatment and disposal facilities located in accordance with
3 Rule 62-600, Florida Administrative Code?

4 A. Yes.

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

8 A. Yes. Upon FDEP inspections for noise complaints, the utility
9 voluntarily moved several auxiliary engine-driven pumps and built a noise-
10 reduction fence to muffle the remaining engine-driven pumps.

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

13 A. Yes.

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

16 A. Yes.

17 Q. Is the overall maintenance of the treatment, collection, and disposal
18 facilities satisfactory?

19 A. Yes.

20 Q. Does the facility meet the effluent disposal requirements of Rules
21 62-600 and 62-610, Florida Administrative Code?

22 A. No. There has been unauthorized discharge to surface waters.

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

1 A. No. There has been unauthorized discharge to surface waters.

2 Q. Has Deltona Lakes wastewater system been the subject of any FDEP
3 enforcement action within the past two years?

4 A. Yes. There is an enforcement action concerning completion of permitted
5 disposal areas. A consent order was entered requiring an application for a
6 wet-weather discharge permit and a study of alternative disposal sites. The
7 consent order was signed by SSU on October 27, 1995, and is awaiting execution
8 by the Director of District Management. Those documents are set forth in
9 Exhibit CCA-3. 166

10 Q. Do you have anything further to add?

11 A. No, I do not.

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1 MR. PELLEGRINI: Mr. Anderson is tendered
2 for cross examination.

3 CHAIRMAN CLARK: Mr. Beck.

4 MR. BECK: No questions.

5 CHAIRMAN CLARK: Mr. Jacobs.

6 MR. JACOBS: No questions.

7 CHAIRMAN CLARK: Mr. Twomey.

8 MR. TWOMEY: Yes, ma'am.

9 **CROSS EXAMINATION**

10 BY MR. TWOMEY:

11 Q Good morning, Mr. Anderson.

12 A Good morning.

13 Q Would you turn to Page 3 of your testimony,
14 sir?

15 A Okay. Just a second. Let me get it.

16 CHAIRMAN CLARK: Okay.

17 Q At Line 21 you indicate that the Chuluota --
18 is it pronounced "Chuluota"?

19 A Chuluota?

20 A Yes, sir.

21 Q Is that the Chuluota system is operating
22 under the permit indicated. And my question to you is
23 that an operating permit?

24 A Yes, sir, it is.

25 Q Do they have any construction projects or

1 permits with the DEP?

2 A Not that I'm aware of.

3 Q Okay. You've indicated in your exhibit on
4 Chuluota that there's not now hydraulic overloading;
5 is that correct?

6 A Yes, sir. Not in a engineering sense
7 because they did have 100,000-gallon-a-day capacity.

8 Q Okay. But let me ask you, on your prefiled
9 direct testimony on Page 4 you state that there's
10 extreme -- you've noted extreme infiltration. And my
11 question is not withstanding the fact that there is
12 not hydraulic overloading in an engineering sense, is
13 there still extreme infiltration at that system?

14 A That's my understanding from the inspector.
15 They had talked to the operator and the operator
16 indicated that there was currently an I&I project
17 going on there. Infiltration and, you know -- an
18 infiltration study going on there.

19 Q Okay, sir. I take it that the DEP doesn't
20 have a concern with that in a economic sense so long
21 as it doesn't cause the plant to be overloaded in an
22 engineering sense; is that correct?

23 A Yes. That's correct. Yes.

24 Q Okay. You have modified, through your
25 exhibit, your testimony on the Enterprise Utilities'

1 wastewater systems.

2 MR. PELLEGRINI: Excuse me, Mr. Twomey. For
3 purpose of clarification, Stone Island and Enterprise
4 are one and the same entity. I'm not sure that
5 everyone is aware of that.

6 MR. TWOMEY: Okay. Thank you.

7 BY MR. TWOMEY:

8 Q You indicate that SSU has indicated that
9 it's preparing the paperwork to transfer receivership
10 of that facility?

11 A Yes, sir.

12 Q And I think you indicated in your opening
13 testimony that they indicated to you that they were
14 doing that because they didn't have the economic
15 wherewithal to operate the system, or words to that
16 effect. Is that correct?

17 A Yes, sir.

18 Q Who told you that, Mr. Anderson?

19 A It was enclosed in the letter with my
20 amended testimony there dated March 12th.

21 Q Do you have a copy of that letter?

22 A Yes. I apologize. I just got this a few
23 minutes before you came on.

24 A That's okay.

25 Q And hadn't seen the -- where should I look?

1 A It's at the bottom there, says "In reference
2 to the proposed revisions to the consent order," the
3 second line.

4 Q Yes, sir. Do you know what he means by
5 that?

6 A No, sir. I don't.

7 Q To your knowledge has -- who would they
8 transfer the receivership to, do you know?

9 A I have no idea.

10 Q Is that something that the DEP is concerned
11 with, about whether there is a proper receiver?

12 A Yes. We are concerned about somebody, you
13 know, to be responsible for the facility, yes, sir.

14 Q To your knowledge, has SSU put any pressure
15 on your office, or those of your superiors, to
16 indicate that they will have to give up this system if
17 they don't get adequate revenues through uniform
18 rates?

19 A Not to my knowledge, no.

20 Q Okay. How many years have you been involved
21 in visiting or inspecting the Enterprise system,
22 Mr. Anderson?

23 A About three years, I guess. Three, three
24 and a half years.

25 Q Is it a system that's in relatively bad

1 condition?

2 A They made some, you know, modifications to
3 the system, and I think it's probably working better.
4 But the disposal area for it is very marginal.

5 Q By "they", they made modifications, do you
6 mean SSU made modifications?

7 A Yes.

8 Q And to your knowledge isn't it correct that
9 SSU had planned to make substantial additional
10 modifications to the system if they were to have the
11 additional revenues?

12 A Yes, sir.

13 Q Okay. If you know, Mr. Anderson, is the
14 reason the system is in such relatively bad condition
15 now due solely to the inattention of the previous
16 owner?

17 MR. ARMSTRONG: Madam Chair, I'd have to
18 object because I didn't hear the witness say at all
19 that the system was in relatively bad condition. All
20 he said was we made improvements, the system is in
21 better condition, and it's only the disposal that's
22 the problem. I just want this record to be clear and
23 I don't believe that was the witness's testimony.

24 MR. TWOMEY: I'm sorry.

25 Q (By Mr. Twomey) Is the lack of proper

1 disposal area due to the actions of the previous
2 owner?

3 A It was what Southern States got when they
4 received it. It's not their problem -- you know,
5 necessarily their problem.

6 Q Okay. You say on Page 13, Line 23, the
7 spray field disposal site and the percolation problem
8 would be eliminated with connection to Deltona Lakes
9 system; is that correct?

10 A That was proposed, but I don't think that's
11 going to happen.

12 Q Why not?

13 A Well, it was my understanding that the cost
14 of connecting it with Deltona Lakes would be cost
15 prohibitive to the rates for the customers.

16 Q Do you mean the rates for the customers at
17 Enterprise?

18 A Yes, sir.

19 Q Okay. On Page 14 at the bottom of the page,
20 Line 24, there's a question as to whether Enterprise
21 Utilities has been the subject of any DEP enforcement
22 action within the past two years. On the next page
23 you indicate, yes, that the Utility modified its
24 collection system without DEP approval and failed to
25 notify of abnormal event.

1 And my question to you is by "utility", did
2 you mean SSU or the previous owner?

3 A SSU.

4 Q And by that do you mean that they failed to
5 secure the necessary construction permits? What did
6 they fail to do when they modified the collection
7 system?

8 A They had a problem with, I guess -- one
9 residence that was in a low area at the end of the
10 collection system had -- wastewater kept backing up in
11 there. And they put in an unauthorized pipe to
12 discharge that. And that's what this all came out of.

13 Q Okay, sir. In your exhibit, Mr. Anderson,
14 you mention the Deltona Lakes wastewater system and
15 you say, if I understand it correctly, that the
16 disposal system of that system has failed; is that
17 correct?

18 A In my amended testimony, yes, sir, I did.

19 Q Well, what happens there? I mean do you
20 issue a citation? What process -- what will happen
21 and at what expense, if you know, to rectify that
22 situation?

23 A Right now they're in the process of drafting
24 a warning letter addressing that failure of the
25 disposal system.

1 Q Well, in the meantime, what -- I mean, is
2 there pollution resulting or what is the problem?

3 A Yes, there is. There's water ponding and I
4 guess probably some runoff in that too. I'm not
5 exactly sure of what other thing. I know that the
6 drain field area is ponding and there's a problem
7 there.

8 Q Well, let me ask you this in this regard.
9 SSU -- I don't expect you to be aware of this
10 necessarily, but they have, in other service areas
11 ongoing construction projects to put in place, new
12 water treatment facilities, new wastewater facilities
13 and the like.

14 What is the problem here. Is this a problem
15 of inattention on their part? Is it something that
16 can be corrected or should have been corrected quite
17 readily? What is the scope of the problem?

18 A I believe maybe just an overload problem. I
19 guess maybe there's some discussion going on currently
20 about the disposal capacity of that drain field. I
21 don't know exactly what the status of it is, but I
22 know there was some discussion of the disposal
23 capacity.

24 Q Okay, sir. Let me ask you to look at
25 Page 25, please. Notwithstanding that the former

1 owner of the Valencia system modified part of the
2 collection system without approval, has the system
3 been operated in compliance by SSU since then?

4 A Yes, sir, best of my knowledge it has.

5 MR. TWOMEY: Okay. That's all I have for
6 Mr. Anderson. Thank you, sir.

7 CHAIRMAN CLARK: Mr. Armstrong.

8 MR. ARMSTRONG: I have just a few, Madam
9 Chair.

10 **CROSS EXAMINATION**

11 BY MR. ARMSTRONG:

12 Q Mr. Anderson, Mr. Breitenstein and
13 Ms. de Pavia, my name is Brian Armstrong. I'm an
14 attorney with Southern States. I just wanted to thank
15 you first for being available today. In light of the
16 fact that we have to continue to work with each other,
17 we want you to know we were ready to stipulate you.
18 But I just have what I think will be very brief
19 questions for you today.

20 Mr. Anderson, on Page 4, at Line 2, you do
21 refer to the extreme infiltration at the Chuluota
22 facility. And I understand and see that you did
23 mention in your update memo that the normal flows for
24 this facility are .035 to .04 MGD. Mr. Anderson, are
25 you aware that Southern States has already completed

1 relining of much of the collection facility at this
2 time?

3 A No, sir, I wasn't aware of that.

4 Q Okay. Have you had the chance to review the
5 recent MOR reports that suggests that the normal flows
6 has been reacheived?

7 A The latest one I had I think was only
8 February. So -- no, I haven't noticed anything
9 recently that, you know -- I haven't reviewed anything
10 that recently, I don't guess.

11 Q Okay. That's fine. That's our burden.
12 We'll put that in evidence.

13 Regarding the Enterprise facility and
14 specifically your testimony on Page 13, at Line 16 you
15 refer to the fact that the utility needs to clean the
16 vegetation. Do you see that?

17 A Yes, sir.

18 Q Are you aware that this vegetation has been
19 cleaned at this time?

20 A No, sir. I thought the latest letter I had
21 got on them indicated it would be done in June, I
22 believe it was.

23 Q So you're not aware that it's been cleaned?

24 A That's the latest thing I had, said they
25 would clean the pond in June. I believe that was the

1 date.

2 Q Okay. Thank you.

3 Referring to Page 18 of your testimony, and
4 specifically as it relates to Buena Ventura Lakes
5 facility.

6 A Okay.

7 Q Actually it's at Page 20, you're asked the
8 question are the collection, treatment and disposal
9 facilities in compliance and your response was yes.

10 A Yes.

11 Q A former DEP employee, Richard Harvey, is
12 prepared to testify in this case that it's his belief
13 that the effluent quality from the Buena Ventura Lakes
14 facility is probably among the top two or three in the
15 state. Have you examined that effluent quality and
16 would you have your own opinions in that regard?

17 A No, I haven't. According to the inspection
18 report it seemed to be in compliance. That's the best
19 I can tell you.

20 Q All right. Just so the record is absolutely
21 clear, the noncompliance issues identified on Page 19
22 at Lines 1 through 5, those items occurred before
23 Southern States took over the facility, correct?

24 A Yes, was. That's correct.

25 Q Could I refer you to the portion of your

1 testimony regarding Salt Springs wastewater system and
2 specifically Page 26, Lines 13 and 14.

3 A Okay.

4 Q There you indicate that Southern States has
5 resolved prior noise and odor complaints on its own
6 initiative.

7 A Yes, sir. That's correct. That is correct.

8 Q Okay. It's our testimony that Southern
9 States does a lot to correct problems on our own
10 initiative. And I was just wondering, you put that
11 here specifically with regard to that instance.

12 Would you have a opinion in terms of
13 Southern States and our initiative to try and correct
14 problems as they arise?

15 MR. BECK: I object to the form of the
16 question. He's leading the witness and counsel is
17 testifying.

18 CHAIRMAN CLARK: I think it's permissible to
19 lead the witness on cross --

20 WITNESS ANDERSON: I --

21 CHAIRMAN CLARK: Just a minute,
22 Mr. Anderson. I have to deal with an objection.

23 MR. BECK: The leading I take back because
24 it is permissible. But I do object to counsel
25 testifying.

1 CHAIRMAN CLARK: I'm going to go ahead and
2 allow the question, but I would question all counsels
3 about testifying.

4 Mr. Armstrong, would you restate the
5 question for Mr. Anderson?

6 MR. ARMSTRONG: I don't want to testify, so
7 I don't want testimony in that looks like it's me
8 testifying, so I'll just withdraw the request, Madam
9 Chair.

10 Q Mr. Anderson, I've withdrawn that question.

11 A Okay.

12 Q Regarding the Valencia Terrace facility and
13 specifically at Page 25, once again this situation
14 occurred before Southern States took the facility
15 correct?

16 A Yes, that's correct.

17 Q There has been some testimony regarding the
18 Deltona Lakes effluent disposal concern?

19 A Okay.

20 Q First, if you know, is it -- if you know, do
21 these concerns arise in the recent past as a result of
22 a series of heavy rainfall events in the Deltona area?

23 A Originally, I believe, that had some impact
24 on it, yes. But the current warning letter that's
25 being drafted, rain didn't have any impact on that

1 that I'm aware of.

2 Q Okay. The Deltona Lakes facility is a Class
3 1 reliability use?

4 A Yes, sir.

5 Q And before Southern States took over that
6 facility from Deltona Utilities, it wasn't a Class 1
7 reliability facility, correct?

8 A I believe that is correct, yes, sir.

9 Q In fact the effluent was being discharged
10 into Lake Monroe; do you have any knowledge of that?

11 A Yes, sir. They did have a permit for that
12 some previous date.

13 Q Would you know if it was the DEP's opinion
14 that that discharge to Lake Monroe should cease.

15 A I'm really not sure -- who initiated that.
16 I'm not really sure who initiated it.

17 Q Okay. So you have no awareness of whether
18 there was a consent order that required the discharge
19 to cease from Lake Monroe?

20 A I'm not sure, no, sir.

21 Q Okay.

22 MR. ARMSTRONG: Thank you, Mr. Anderson. I
23 don't have anything further.

24 COMMISSIONER CLARK: Questions,
25 Commissioners? Redirect.

REDIRECT EXAMINATION

1

2 BY MR. PELLEGRINI:

3 Q Mr. Anderson, you've noted that the FP&L
4 easement drain field at Deltona has failed?

5 A Yes, sir.

6 Q Do you have knowledge of when the drain
7 field was constructed?

8 A Let me look here just a second. I know when
9 we issued our consent order that a part of the
10 corrective action there was to complete the
11 construction of the drain field. And it was completed
12 just after that consent order was issued. So let me
13 see -- I imagine it must have been somewhere around
14 the -- maybe the 1st of November '95, is when that
15 drain field was completed maybe.

16 Q All right. In your professional judgment is
17 the problem with that drain field one that can be
18 corrected?

19 A I'm not really qualified to answer that, I
20 don't believe.

21 Q I believe in response to a question to
22 Mr. Twomey you said you understood the drain field's
23 capacity to be in question; is that correct?

24 A Yes, sir. I think it was permitted at
25 hundred thousand gallons a day, and I believe Southern

1 States Utilities is trying to get it rerated to a
2 higher capacity.

3 Q You also said, I think in response to an
4 earlier question, you thought the problem was one of
5 overload; is that correct?

6 A Yes, sir.

7 Q In reference, Mr. Anderson, to the
8 Enterprise system, do you have knowledge of the
9 language in the revised draft consent order?

10 A Yes, sir.

11 Q Can you summarize -- can you summarize that
12 for us at this time?

13 A Okay. We wanted them to correct the
14 deficiencies noted in the last inspection, which was
15 cleaning the vegetation and the solids out of the
16 pond. We wanted them to demonstrate 12 months of
17 compliance with permit condition and department rules.
18 If they cannot demonstrate it, then, you know, plan to
19 bring the plan into compliance. Keep us notified of
20 the appeal or whatever on the statewide uniform rates.
21 And pay a penalty of I think it's a little over
22 \$9,000.

23 Q That revised draft consent order was issued
24 was it not?

25 A Yes, sir. It was sent to the Southern

1 States Utilities for review on -- it was signed April
2 23rd and it went out, I think, the day after.

3 Q April 23rd you say?

4 A Yes, sir.

5 Q You're certain of that date? You're certain
6 of that date?

7 A Yes, sir, I am certain of that date. That's
8 the date we forwarded it for Southern States review.

9 Q Do you have an opinion as to what the
10 outcome should be with the Stone Island sewage
11 treatment plant?

12 A Well, I mean, I think it probably can be
13 operated good. It would have been nice if we would
14 have connected it to Deltona Lakes. It would have
15 been one less pollution problem we would have had to
16 worry about.

17 Q A few questions to wind up, Mr. Anderson,
18 concerning Buena Ventura Lakes. Are you familiar with
19 the current DEP domestic wastewater permit issued for
20 that treatment plant?

21 A Yes, sir.

22 Q Do you have that permit at hand?

23 A Yes, sir.

24 Q Would you refer to it, please, and tell me
25 what the total effluent disposal capacity for this

1 facility is?

2 A It looks like it's 1.08 MGD.

3 Q Let me direct your attention to Page 2 for
4 the effluent disposal capacity.

5 A Okay.

6 Q In the tabulation.

7 A Okay I'm sorry. I was just looking at the
8 surface water. I'm sorry. 1.930.

9 Q That is the total effluent disposal capacity
10 for the facility, correct?

11 A That's what it appears, yes, sir.

12 Q Is it not true that this facility employs
13 three different methods for reuse effluent disposal?

14 A Yes, I believe you're correct, yes, sir.

15 Q Would you describe these methods, please,
16 Mr. Anderson, and their respective capacities?

17 A It looks like are three rapid exfiltration
18 basin with a capacity of 1.08 MGD. With a fourth one
19 that could be built that would increase at the .133
20 MGD. There is surface water discharge of .1 MGD and
21 then there are reclaimed water uses at a golf course
22 of .5 MGD.

23 Q According to the operating permit,
24 Mr. Anderson, how many acres of wetlands are involved
25 at this site?

1 A The best I can tell 169 acres.

2 Q In your opinion, Mr. Anderson, are all 169
3 acres necessary to accommodate the .100 MGD effluent
4 disposal rating for the wetlands?

5 A I don't think I have the knowledge to answer
6 that.

7 MR. PELLEGRINI: Thank you, Mr. Anderson.

8 I have no further questions, Chairman Clark.

9 CHAIRMAN CLARK: Thank you, Mr. Anderson.
10 Exhibits.

11 MR. PELLEGRINI: Staff would offer exhibits
12 marked 166 and 167 for identification.

13 CHAIRMAN CLARK: 166 and 167 will be
14 admitted in the record without objection. Thank you
15 Mr. Anderson. Mr. Breitenstein is next.

16 (Exhibit Nos. 166 and 167 received in
17 evidence.)

18 Witness Anderson excused.)

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SCOTT A. BREITENSTEIN

1
2 was called as a witness via teleconferencing on behalf
3 of the Staff of the Florida Public Service Commission
4 and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

5
6 BY MR. PELLEGRINI:

7 Q Good morning, Mr. Breitenstein.

8 A Good morning.

9 Q Would you please state your name and
10 business affiliation for the record, please?

11 A My name is Scott Allen Breitenstein. I work
12 for the Department of Environmental Protection in the
13 Central District in Orlando.

14 Q Mr. Breitenstein, did you prefile direct
15 testimony in this case consisting of 16 pages?

16 A Yes.

17 Q Do you have changes or corrections to your
18 testimony at this time?

19 A Yes, I do. I'd like to -- the water
20 treatment plant at Lake Ajay I in my testimony
21 indicated that they needed auxillary power with
22 automatic start-up, and they needed to do quarterly
23 monitoring of Group 2 UOC. At the later date we
24 received a response and they no longer -- am I having
25 this requirement for this system.

1 Tropical Park water treatment plant No. 1 is
2 back on line and back into compliance.

3 Q With these changes, Mr. Breitenstein, that
4 you've made in your testimony, if I were to ask you
5 the same questions today would your testimony be
6 substantially the same?

7 A I don't know how to answer that. Can you
8 repeat that again?

9 Q With the changes which you've just made to
10 your prefiled direct testimony, if you were to be
11 asked the same questions today, would your testimony
12 be substantially the same?

13 A Yes.

14 Q Would your answers be substantially the
15 same?

16 A Yes.

17 Q Your answer is yes.

18 MR. PELLEGRINI: Madam Chairman, may I have
19 Mr. Breitenstein's testimony inserted into the record
20 as though read.

21 COMMISSIONER CLARK: The prefiled direct
22 testimony of Scott A Breitenstein will be inserted
23 into the record as though read, with the modifications
24 he has just made.

25 Q (By Mr. Pellegrini) Mr. Breitenstein, there

1 were no exhibits attached to your testimony; is that
2 correct?

3 A Correct.

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1 DIRECT TESTIMONY OF SCOTT A. BREITENSTEIN

2 Q. Please state your name and business address.

3 A. Scott A. Breitenstein, 3319 Maguire Boulevard, Suite 232, Orlando,
4 Florida, 32803.

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

7 A. I graduated from the University of Central Florida with a Bachelor of
8 Science in Environmental Engineering in 1991. I had worked in an
9 environmental lab for one year prior to my present job.

10 Q. By whom are you presently employed?

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

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

14 A. I have been employed by FDEP two (2) years as an Engineer I.

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

16 A. My general responsibilities have been to conduct inspection of public
17 water systems to ensure compliance with Florida's drinking water rules (Rules
18 62-550, 62-555, 62-560, Florida Administrative Code).

19 Q. Are you familiar with the Southern States Utilities Inc. water systems
20 located in the Central District?

21 A. Yes.

22 Q. Were these systems inspected by you, or by FDEP staff under your
23 supervision?

24 A. Yes.

25 Bay Lake Estates Water System

- 1 Q. Does the utility have a current construction permit from the FDEP for
2 Bay Lake Estates Water System (Bay Lake Estates)?
- 3 A. No.
- 4 Q. Are the utility's treatment facilities and distribution system
5 sufficient to serve its present customers?
- 6 A. Yes.
- 7 Q. Does the utility maintain the required 20 psi minimum pressure
8 throughout the distribution system?
- 9 A. Yes.
- 10 Q. Does the utility have an adequate auxiliary power source in the event
11 of a power outage?
- 12 A. Yes.
- 13 Q. Are the utility's water wells for Bay Lake Estates located in compliance
14 with Rule 62-555, Florida Administrative Code?
- 15 A. Yes.
- 16 Q. Does the utility have certified operators as required by Rule 61E12-41,
17 Florida Administrative Code?
- 18 A. Yes.
- 19 Q. Has the utility established a cross-connection control program in
20 accordance with Rule 62-555.360, Florida Administrative Code?
- 21 A. Yes. This program was submitted to and found acceptable by FDEP.
- 22 Q. Is the overall maintenance of the treatment plant and distribution
23 facilities satisfactory?
- 24 A. Yes.
- 25 Q. Does the water produced by the utility meet the State and Federal

1 | maximum contaminant levels for primary and secondary water quality standards?

2 | A. Yes.

3 | Q. Does the utility monitor the organic contaminants listed in Rule
4 | 62-550.410, Florida Administrative Code?

5 | A. No. A waiver application was submitted to FDEP and accepted December
6 | 1993. This is based on less than 150 connections and less than 350 people
7 | served.

8 | Q. Do recent chemical analyses of raw and finished water, when compared to
9 | regulations, suggest the need for additional treatment?

10 | A. No.

11 | Q. Does the utility maintain the required chlorine residual or its
12 | equivalent throughout the distribution system?

13 | A. Yes.

14 | Q. Are the plant and distribution systems in compliance with all the other
15 | provisions of Chapter 62, Florida Administrative Code, not previously
16 | mentioned?

17 | A. Yes.

18 | Q. Has Bay Lake Estates been the subject of any FDEP enforcement action
19 | within the past two years?

20 | A. No.

21 | **Buenaventura Lakes Water System**

22 | Q. Does the utility have a current construction permit from the FDEP for
23 | Buenaventura Lakes Water System (Buenaventura)?

24 | A. No.

25 | Q. Are the utility's treatment facilities and distribution system

1 sufficient to serve its present customers?

2 A. Yes.

3 Q. Does the utility maintain the required 20 psi minimum pressure
4 throughout the distribution system?

5 A. Yes.

6 Q. Does the utility have an adequate auxiliary power source in the event
7 of a power outage?

8 A. Yes.

9 Q. Are the utility's water wells for Buenaventura located in compliance
10 with Rule 62-555, Florida Administrative Code?

11 A. Yes.

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

14 A. Yes.

15 Q. Has the utility established a cross-connection control program in
16 accordance with Rule 62-555.360, Florida Administrative Code?

17 A. Yes.

18 Q. Is the overall maintenance of the treatment plant and distribution
19 facilities satisfactory?

20 A. Yes.

21 Q. Does the water produced by the utility meet the State and Federal
22 maximum contaminant levels for primary and secondary water quality standards?

23 A. Yes.

24 Q. Does the utility monitor the organic contaminants listed in Rule
25 62-550.410, Florida Administrative Code?

1 A. Yes.

2 Q. Do recent chemical analyses of raw and finished water, when compared to
3 regulations, suggest the need for additional treatment?

4 A. No.

5 Q. Does the utility maintain the required chlorine residual or its
6 equivalent throughout the distribution system?

7 A. Yes.

8 Q. Are the plant and distribution systems in compliance with all the other
9 provisions of Chapter 62, Florida Administrative Code, not previously
10 mentioned?

11 A. Yes.

12 Q. Has Buenaventura Lakes been the subject of any FDEP enforcement action
13 within the past two years?

14 A. No.

15 Intercession City Water System

16 Q. Does the utility have a current construction permit from the FDEP for
17 Intercession City Water System (Intercession City)?

18 A. No.

19 Q. Are the utility's treatment facilities and distribution system
20 sufficient to serve its present customers?

21 A. Yes.

22 Q. Does the utility maintain the required 20 psi minimum pressure
23 throughout the distribution system?

24 A. Yes.

25 Q. Does the utility have an adequate auxiliary power source in the event

1 | of a power outage?

2 | A. Yes.

3 | Q. Are the utility's water wells for Intercession City located in
4 | compliance with Rule 62-555, Florida Administrative Code?

5 | A. No. A backup well drilled in the 1920's has septic tank/wastewater
6 | plumbing within the 100 feet setback. This was accepted under the condition
7 | of good raw water bacteriological results, monitored closely.

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

10 | A. Yes.

11 | Q. Has the utility established a cross-connection control program in
12 | accordance with Rule 62-555.360, Florida Administrative Code?

13 | A. Yes.

14 | Q. Is the overall maintenance of the treatment plant and distribution
15 | facilities satisfactory?

16 | A. Yes.

17 | Q. Does the water produced by the utility meet the State and Federal
18 | maximum contaminant levels for primary and secondary water quality standards?

19 | A. Yes.

20 | Q. Does the utility monitor the organic contaminants listed in Rule
21 | 62-550.410, Florida Administrative Code?

22 | A. Yes.

23 | Q. Do recent chemical analyses of raw and finished water, when compared to
24 | regulations, suggest the need for additional treatment?

25 | A. No.

1 Q. Does the utility maintain the required chlorine residual or its
2 equivalent throughout the distribution system?

3 A. Yes.

4 Q. Are the plant and distribution systems in compliance with all the other
5 provisions of Chapter 62, Florida Administrative Code, not previously
6 mentioned?

7 A. Yes. A minor deficiency was noted during an October 11, 1995 sanitary
8 survey. This letter has not been sent to S.S.U. to date.

9 Q. Has Intercession City been the subject of any FDEP enforcement action
10 within the past two years?

11 A. No.

12 Lake Ajay Estates Water System

13 Q. Does the utility have a current construction permit from the FDEP for
14 Lake Ajay Estates Water System (Lake Ajay Estates)?

15 A. No.

16 Q. Are the utility's treatment facilities and distribution system
17 sufficient to serve its present customers?

18 A. Yes.

19 Q. Does the utility maintain the required 20 psi minimum pressure
20 throughout the distribution system?

21 A. Yes.

22 Q. Does the utility have an adequate auxiliary power source in the event
23 of a power outage?

24 A. No. The system will be made aware of this requirement in a letter
25 forthcoming from FDEP to SSU. The deficiency was just noted in a compliance

1 inspection conducted on October 11, 1995.

2 Q. Are the utility's water wells for Lake Ajay Estates located in
3 compliance with Rule 62-555, Florida Administrative Code?

4 A. Yes.

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

7 A. Yes.

8 Q. Has the utility established a cross-connection control program in
9 accordance with Rule 62-555.360, Florida Administrative Code?

10 A. Yes.

11 Q. Is the overall maintenance of the treatment plant and distribution
12 facilities satisfactory?

13 A. Yes.

14 Q. Does the water produced by the utility meet the State and Federal
15 maximum contaminant levels for primary and secondary water quality standards?

16 A. Yes.

17 Q. Does the utility monitor the organic contaminants listed in Rule
18 62-550.410, Florida Administrative Code?

19 A. No. This system previously had a waiver for Group II VOC. In the
20 compliance inspection conducted on October 11, 1995, the population was found
21 to be greater than 350 people. SSU will be notified of this monitoring
22 requirement.

23 Q. Do recent chemical analyses of raw and finished water, when compared to
24 regulations, suggest the need for additional treatment?

25 A. No.

1 Q. Does the utility maintain the required chlorine residual or its
2 equivalent throughout the distribution system?

3 A. Yes.

4 Q. Are the plant and distribution systems in compliance with all the other
5 provisions of Chapter 62, Florida Administrative Code, not previously
6 mentioned?

7 A. Yes. SSU has maintained compliance by correcting noted deficiencies
8 within time guidelines.

9 Q. Has Lake Ajay Estates been the subject of any FDEP enforcement action
10 within the past two years?

11 A. No.

12 Pine Ridge Estates Water System

13 Q. Does the utility have a current construction permit from the FDEP for
14 Pine Ridge Estates Water System (Pine Ridge Estates)?

15 A. No.

16 Q. Are the utility's treatment facilities and distribution system
17 sufficient to serve its present customers?

18 A. Yes.

19 Q. Does the utility maintain the required 20 psi minimum pressure
20 throughout the distribution system?

21 A. Yes.

22 Q. Does the utility have an adequate auxiliary power source in the event
23 of a power outage?

24 A. Yes.

25 Q. Are the utility's water wells for Pine Ridge Estates located in

1 | compliance with Rule 62-555, Florida Administrative Code?

2 | A. Yes.

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

5 | A. Yes.

6 | Q. Has the utility established a cross-connection control program in
7 | accordance with Rule 62-555.360, Florida Administrative Code?

8 | A. Yes.

9 | Q. Is the overall maintenance of the treatment plant and distribution
10 | facilities satisfactory?

11 | A. Yes.

12 | Q. Does the water produced by the utility meet the State and Federal
13 | maximum contaminant levels for primary and secondary water quality standards?

14 | A. Yes.

15 | Q. Does the utility monitor the organic contaminants listed in Rule
16 | 62-550.410, Florida Administrative Code?

17 | A. Yes.

18 | Q. Do recent chemical analyses of raw and finished water, when compared to
19 | regulations, suggest the need for additional treatment?

20 | A. No.

21 | Q. Does the utility maintain the required chlorine residual or its
22 | equivalent throughout the distribution system?

23 | A. Yes.

24 | Q. Are the plant and distribution systems in compliance with all the other
25 | provisions of Chapter 62, Florida Administrative Code, not previously

1 | mentioned?

2 | A. Yes.

3 | Q. Has Pine Ridge Estates been the subject of any FDEP enforcement action
4 | within the past two years?

5 | A. No.

6 | The Fountains Water System

7 | Q. Does the utility have a current construction permit from the FDEP for
8 | The Fountains Water System (The Fountains)?

9 | A. No.

10 | Q. Are the utility's treatment facilities and distribution system
11 | sufficient to serve its present customers?

12 | A. Yes.

13 | Q. Does the utility maintain the required 20 psi minimum pressure
14 | throughout the distribution system?

15 | A. Yes.

16 | Q. Does the utility have an adequate auxiliary power source in the event
17 | of a power outage?

18 | A. No. That is not required at this time.

19 | Q. Are the utility's water wells for The Fountains located in compliance
20 | with Rule 62-555, Florida Administrative Code?

21 | A. Yes.

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

24 | A. Yes.

25 | Q. Has the utility established a cross-connection control program in

1 | accordance with Rule 62-555.360, Florida Administrative Code?

2 | A. Yes.

3 | Q. Is the overall maintenance of the treatment plant and distribution
4 | facilities satisfactory?

5 | A. Yes.

6 | Q. Does the water produced by the utility meet the State and Federal
7 | maximum contaminant levels for primary and secondary water quality standards?

8 | A. Yes.

9 | Q. Does the utility monitor the organic contaminants listed in Rule
10 | 62-550.410, Florida Administrative Code?

11 | A. No. It has a waiver for Group II VOC granted by FDEP.

12 | Q. Do recent chemical analyses of raw and finished water, when compared to
13 | regulations, suggest the need for additional treatment?

14 | A. No.

15 | Q. Does the utility maintain the required chlorine residual or its
16 | equivalent throughout the distribution system?

17 | A. Yes.

18 | Q. Are the plant and distribution systems in compliance with all the other
19 | provisions of Chapter 62, Florida Administrative Code, not previously
20 | mentioned?

21 | A. Yes.

22 | Q. Has The Fountains been the subject of any FDEP enforcement action within
23 | the past two years?

24 | A. No.

25 | Tropical Park Water System

1 Q. Does the utility have a current construction permit from the FDEP for
2 the Tropical Park Water System (Tropical Park)?

3 A. No.

4 Q. Are the utility's treatment facilities and distribution system
5 sufficient to serve its present customers?

6 A. Yes.

7 Q. Does the utility maintain the required 20 psi minimum pressure
8 throughout the distribution system?

9 A. Yes.

10 Q. Does the utility have an adequate auxiliary power source in the event
11 of a power outage?

12 A. Yes.

13 Q. Are the utility's water wells for Tropical Park located in compliance
14 with Rule 62-555, Florida Administrative Code?

15 A. No. Septic tanks, drain fields and/or wastewater plumbing are located
16 approximately 83 feet from backup well. This has been accepted by FDEP under
17 condition of good bacteriological results monthly.

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

20 A. Yes.

21 Q. Has the utility established a cross-connection control program in
22 accordance with Rule 62-555.360, Florida Administrative Code?

23 A. Yes.

24 Q. Is the overall maintenance of the treatment plant and distribution
25 facilities satisfactory?

1 A. Yes.

2 Q. Does the water produced by the utility meet the State and Federal
3 maximum contaminant levels for primary and secondary water quality standards?

4 A. Yes.

5 Q. Does the utility monitor the organic contaminants listed in Rule
6 62-550.410, Florida Administrative Code?

7 A. Yes.

8 Q. Do recent chemical analyses of raw and finished water, when compared to
9 regulations, suggest the need for additional treatment?

10 A. No.

11 Q. Does the utility maintain the required chlorine residual or its
12 equivalent throughout the distribution system?

13 A. Yes.

14 Q. Are the plant and distribution systems in compliance with all the other
15 provisions of Chapter 62, Florida Administrative Code, not previously
16 mentioned?

17 A. No. The backup well/plant was taken out of service in April 1994
18 without FDEP approval, as detailed in Exhibit SAB-1. To date, the plant is
19 still offline. This is unacceptable to the FDEP because the system requires
20 a backup source. FDEP is awaiting SSU compliance action.

21 Q. Has Tropical Park been the subject of any FDEP enforcement action within
22 the past two years?

23 A. None.

24 Windsong Water System

25 Q. Does the utility have a current construction permit from the FDEP for

1 | Windsong Water System (Windsong)?

2 | A. No.

3 | Q. Are the utility's treatment facilities and distribution system
4 | sufficient to serve its present customers?

5 | A. Yes.

6 | Q. Does the utility maintain the required 20 psi minimum pressure
7 | throughout the distribution system?

8 | A. Yes.

9 | Q. Does the utility have an adequate auxiliary power source in the event
10 | of a power outage?

11 | A. Yes.

12 | Q. Are the utility's water wells for Windsong located in compliance with
13 | Rule 62-555, Florida Administrative Code?

14 | A. Yes.

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

17 | A. Yes.

18 | Q. Has the utility established a cross-connection control program in
19 | accordance with Rule 62-555.360, Florida Administrative Code?

20 | A. Yes.

21 | Q. Is the overall maintenance of the treatment plant and distribution
22 | facilities satisfactory?

23 | A. Yes.

24 | Q. Does the water produced by the utility meet the State and Federal
25 | maximum contaminant levels for primary and secondary water quality standards?

1 A. Yes.

2 Q. Does the utility monitor the organic contaminants listed in Rule
3 62-550.410, Florida Administrative Code?

4 A. Yes.

5 Q. Do recent chemical analyses of raw and finished water, when compared to
6 regulations, suggest the need for additional treatment?

7 A. No.

8 Q. Does the utility maintain the required chlorine residual or its
9 equivalent throughout the distribution system?

10 A. Yes.

11 Q. Are the plant and distribution systems in compliance with all the other
12 provisions of Chapter 62, Florida Administrative Code, not previously
13 mentioned?

14 A. Yes.

15 Q. Has Windsong been the subject of any FDEP enforcement action within the
16 past two years?

17 A. No.

18 Q. Do you have anything further to add?

19 A. No, I do not.

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1 Q (By Mr. Pellegrini) The witness is
2 available for cross examination.

3 COMMISSIONER KIESLING: I'm sorry, I'm
4 confused. I have a SAB-1.

5 WITNESS BREITENSTEIN: I'm sorry. There's a
6 SAB-1.

7 CHAIRMAN CLARK: SAB-1 will be marked as
8 Exhibit 168.

9 (Exhibit No. 168 marked for identification.)

10 COMMISSIONER CLARK: Mr. Beck.

11 MR. BECK: No questions.

12 CHAIRMAN CLARK: Mr. Jacobs.

13 MR. JACOBS: No questions.

14 CHAIRMAN CLARK: Mr. Twomey.

15 MR. TWOMEY: Yes, ma'am, just a couple.

16 **CROSS EXAMINATION**

17 BY MR. TWOMEY:

18 Q Good morning, sir.

19 A Good morning.

20 Q With respect to Lake Ajay, in your original
21 testimony which was filed on February 26th, 1996, you
22 indicated that the utility did not have the adequate
23 auxiliary power, right?

24 A Yes. The original. That was in October of
25 '95 is when I filled out the testimony.

1 Q Oh, I see. Now what is your testimony now,
2 that SSU has called --

3 A They do not require auxiliary power at this
4 time with automatic start-up.

5 Q But of the number of -- why?

6 A Connections.

7 Q It's based on the number of connections?

8 A Well, it has to do with 350 or more people.

9 Q Yes, sir.

10 A And we use a factor of 3.5 people per
11 connection. And they have indicated at that time in
12 their response that there were 90 connections at that
13 time and now I see there are 94. That's less than 350
14 people.

15 Q Okay. That requirement is not applicable to
16 them?

17 A At this time.

18 Q Okay. Thank you. On Page 8 of your
19 testimony, sir.

20 A Yes.

21 Q You talk about the requirement for
22 monitoring organic contaminants listed in the
23 indicated rule. Now, would you modify your testimony
24 today based upon some situation there.

25 A That has to do with the number of people

1 also.

2 Q Yes, sir.

3 A If they have less than 350 people they do
4 not have to monitor. They have a waiver at this time.

5 Q I see.

6 A They go above the 350, then they will have
7 to monitor.

8 Q Let me ask you this, is it a standard
9 practic of the Department of Environmental Protection
10 to grant waivers for organic contaminent monitoring
11 for systems that are serving less than 350 people?

12 A Yes, sir.

13 Q What are the --

14 A In terms of UOCs, yes.

15 Q What are the primary organic contaminants
16 that would be monitored?

17 A Primary.

18 Q Yes, sir?

19 A I can't list them.

20 Q What are the major ones?

21 A Primary, that's it. Primary inorganics;
22 they have to test for primary inorganics, volitile
23 organic contaminants, and then they have to monitor
24 for unregulated organic contaminants if they are above
25 350 people, or 150 connections.

1 Q Okay. Let me ask you just briefly, is the
2 utility under -- I don't mean just issue SSU -- are
3 all utilities responsible for keeping you aware of how
4 many connections, and, therefore, how many people they
5 serve?

6 A Yes, sir.

7 Q On Page 12 of your testimony, sir.

8 A Yes.

9 Q The waiver they have at the Fountain system,
10 that's the same situation; is that correct?

11 A Yes, sir. I did send a correction on that
12 earlier too. They have a waiver for Group 2 VOC, and
13 I sent a correction it should have been UOC.

14 Q What's U --

15 A Volatile organic contaminants is VOCs and
16 unregulated organic contaminants are or UOCs. They do
17 have to monitor for VOCs.

18 Q On Page 13 in your discussion of the water
19 wells at Tropical Park?

20 A Yes.

21 Q You indicate that the water wells are not in
22 compliance with the applicable rule apparently because
23 there are septic tanks, drain fields, and/or
24 wastewater plumbing located approximately 83 feet from
25 the backup well; is that correct?

1 A Yes.

2 Q My question to you, sir, is how often are
3 the bacteriological examinations made?

4 A They are required to do it monthly. I'm
5 sorry.

6 Q So when you say the monthly results, do you
7 mean they are only examined once a month?

8 A Yes, that's the minimum requirement of the
9 state. They may do more but we require once a month.

10 Q I see. Is there any -- is the coliform
11 bacteria, is that one of the concerns you'd have with
12 the location of the wells that close to septic tank?

13 A If they become present, yes.

14 Q Is there any possibility, especially with
15 the heavy rain, that the coliform bacteria could
16 appear in between monthly testings to be considered
17 dangerous levels?

18 A That hasn't been the case in the 20-plus
19 years the system has been around, as far as I could
20 tell from the records.

21 Q Let me ask you this, and I don't mean to
22 quibble with you on this, but if you only test monthly
23 and you have good results, you can't -- isn't it true
24 that you can't tell what happened in the middle
25 between the monthly test?

1 A Yes.

2 Q Okay.

3 MR. TWOMEY: That's all I have. Thank you
4 very much for your time.

5 MR. ARMSTRONG: A couple of brief lines,
6 Madam charm.

7 **CROSS EXAMINATION**

8 BY MR. ARMSTRONG:

9 Q Again, Mr. Breitenstein, I'm Brian Armstrong
10 with Southern States.

11 Mr. Twomey's questioning has brought up
12 several instances where Southern States has obtained
13 waivers from DEP's requirements. The one instance he
14 just mentioned was the well setback requirement. If
15 Southern States hadn't obtained that waiver, Southern
16 States --

17 A It's not a waiver, it's an acceptance.

18 Q I'm sorry. Exception?

19 A We accepted the present distance, yes.

20 Q If Southern States hadn't applied for that
21 is acceptance and DEP hadn't provided that acceptance,
22 Southern States would have had to move its well and
23 drill another one?

24 A Absolutely, yes.

25 Q Regarding the monitoring requirements for

1 UOCs, if Southern States hadn't requested acceptance,
2 waiver, whatever the terminology is there, Southern
3 States would have to perform additional testing?

4 A It's a waiver and you're right.

5 Q If Southern States hadn't gotten the way for
6 the auxiliary power, we would have had to install
7 additional auxiliary power?

8 A That's not a waiver, sorry. If they go over
9 100, which they may do next year, they might at this
10 time be, they will be required to put automatic
11 auxiliary power with automatic start up in, yes.

12 Q But would you agree that Southern States
13 have been diligent in pursuing -- we got that
14 information to you so that you could --

15 A Yes.

16 Q -- tell us.

17 We don't have to do that?

18 A Yes.

19 Q In each of these instances we spoke about, a
20 new well, additional testing, and the fact we
21 convinced you we don't need additional auxiliary
22 power, had we not done so, there would have been
23 additional cost to SSU, correct?

24 A Yes.

25 Q Referring to Page 7, Mr. Breitenstein,

1 Page 7 of your testimony?

2 A 7.

3 Q The letter you referred to on Line 8, that
4 was sent, correct?

5 A Yes. That was in Intercession City. Yes,
6 it has been corrected.

7 Q And I just want the record to be clear
8 regarding the minor deficiency. They both had to do
9 with the chlorine room, I guess, and one of them was
10 to replace a light bulb that burned out, and other was
11 to move a vent up top in that chlorine room?

12 A Yes. Yes.

13 Q Number one. I think that's a demonstration
14 of how tough the DEP regulates these facilities,
15 number one. But isn't it true that Southern States
16 has complied and resolved those deficiencies?

17 A Yes, it is true.

18 MR. ARMSTRONG: Thank you, Mr. Breitenstein.
19 That's all we have.

20 CHAIRMAN CLARK: Redirect.

21 MR. PELLEGRINI: No questions, Chairman
22 Clark.

23 CHAIRMAN CLARK: Thank you Mr. Breitenstein.
24 Exhibits.

25 MR. PELLEGRINI: Staff would offer exhibit

1 marked 168.

2 CHAIRMAN CLARK: Exhibit 168 will be entered
3 in the record without objection. Ms. de Paiva
4 (Exhibit No. 168 received in evidence.)

5 - - - - -

6 DEBORAH DE PAIVA

7 was called as a witness via teleconferencing on behalf
8 of the Staff of the Florida Public Service Commission
9 and, having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. PELLEGRINI:

12 Q Would you please state your full name and
13 business affiliation for the record?

14 A Deborah Ann de Paiva. I would for the
15 Department of Environmental Protection in the Central
16 District.

17 Q Ms. de Paiva, did you prefile testimony in
18 this case consisting of nine pages?

19 A Yes, sir.

20 Q Do you have any changes or corrections to
21 make to that testimony at this time?

22 A No, I do not.

23 Q If I were to ask you the same questions
24 today, would your testimony be substantially the same?

25 A Yes, sir.

1 MR. PELLEGRINI: Madam Chairman, may they
2 have Ms. de Paiva's prefiled testimony inserted into
3 the record as though read.

4 CHAIRMAN CLARK: The prefiled direct
5 testimony of Debra de Paiva will be inserted into the
6 record as though read.

7 Q (By Mr. Pellegrini) This time I think I'm
8 correct, you have no exhibits attached to your
9 testimony; is that correct?

10 A Correct.

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DIRECT TESTIMONY OF DEBORAH DE PAIVA

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Q. Please state your name and business address.

A. Deborah de Paiva, 3319 Maguire Boulevard, Suite 232, Orlando, Florida, 32803.

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

A. I received a Bachelor of Science in mechanical engineering in August 1992. I worked as an engineering co-op student for approximately 2 years at the Florida Department of Environmental Protection (FDEP) while taking classes at the University of Central Florida. Currently, I am an Engineer II at the FDEP in the drinking water program.

Q. By whom are you presently employed?

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

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

A. I have been employed by the FDEP three years as an engineer in the drinking water compliance/enforcement section, following approximately 2 years as an engineering co-op student.

Q. What are your general responsibilities at the FDEP?

A. My responsibilities are to conduct enforcement related activities, to conduct sanitary surveys and compliance inspections of public water systems, and to provide technical assistance.

Q. Are you familiar with the Southern States Utilities Inc. water systems located in the Central District?

A. Yes.

1 Q. Were these systems inspected by you, or by FDEP staff under your
2 supervision?

3 A. They were inspected by me.

4 Valencia Terrace Water System

5 Q. Does the utility have a current construction permit from the FDEP for
6 Valencia Terrace Water System (Valencia Terrace)?

7 A. No.

8 Q. Are the utility's treatment facilities and distribution system
9 sufficient to serve its present customers?

10 A. Yes.

11 Q. Does the utility maintain the required 20 psi minimum pressure
12 throughout the distribution system?

13 A. Yes.

14 Q. Does the utility have an adequate auxiliary power source in the event
15 of a power outage?

16 A. Yes.

17 Q. Are the utility's water wells for Valencia Terrace located in compliance
18 with Rule 62-555, Florida Administrative Code?

19 A. Yes.

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

22 A. Yes.

23 Q. Has the utility established a cross-connection control program in
24 accordance with Rule 62-555.360, Florida Administrative Code?

25 A. Yes. Southern States Utilities, Inc. has established a cross-connection

1 control program for all of its water systems.

2 Q. Is the overall maintenance of the treatment plant and distribution
3 facilities satisfactory?

4 A. Yes.

5 Q. Does the water produced by the utility meet the State and Federal
6 maximum contaminant levels for primary and secondary water quality standards?

7 A. Yes.

8 Q. Does the utility monitor the organic contaminants listed in Rule
9 62-550.410, Florida Administrative Code?

10 A. Yes.

11 Q. Do recent chemical analyses of raw and finished water, when compared to
12 regulations, suggest the need for additional treatment?

13 A. No.

14 Q. Does the utility maintain the required chlorine residual or its
15 equivalent throughout the distribution system?

16 A. Yes.

17 Q. Are the plant and distribution systems in compliance with all the other
18 provisions of Chapter 62, Florida Administrative Code, not previously mentioned?

19 A. Yes.

20 Q. Has Valencia Terrace been the subject of any FDEP enforcement action
21 within the past two years?

22 A. No.

23 Q. Do you have anything further to add?

24 A. At the time of my last inspection, Lake Utilities Company was the owner
25 of this water systems.

Picciola Island Water System

1
2 Q. Does the utility have a current construction permit from the FDEP for
3 Picciola Island Water System (Picciola Island)?

4 A. No.

5 Q. Are the utility's treatment facilities and distribution system
6 sufficient to serve its present customers?

7 A. Yes.

8 Q. Does the utility maintain the required 20 psi minimum pressure
9 throughout the distribution system?

10 A. Yes.

11 Q. Does the utility have an adequate auxiliary power source in the event
12 of a power outage?

13 A. Yes.

14 Q. Are the utility's water wells for Picciola Island located in compliance
15 with Rule 62-555, Florida Administrative Code?

16 A. No. Septic tanks and/or drainfields are located within 200 feet of both
17 wells. However, FDEP accepted the distances in a letter dated September 23,
18 1993, based on satisfactory department records.

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

21 A. Yes.

22 Q. Has the utility established a cross-connection control program in
23 accordance with Rule 62-555.360, Florida Administrative Code?

24 A. Yes. Southern States Utilities, Inc. has established a cross-connection
25 control program for all of its water systems.

1 Q. Is the overall maintenance of the treatment plant and distribution
2 facilities satisfactory?

3 A. Yes.

4 Q. Does the water produced by the utility meet the State and Federal
5 maximum contaminant levels for primary and secondary water quality standards?

6 A. Yes.

7 Q. Does the utility monitor the organic contaminants listed in Rule
8 62-550.410, Florida Administrative Code?

9 A. Yes.

10 Q. Do recent chemical analyses of raw and finished water, when compared to
11 regulations, suggest the need for additional treatment?

12 A. No.

13 Q. Does the utility maintain the required chlorine residual or its
14 equivalent throughout the distribution system?

15 A. Yes.

16 Q. Are the plant and distribution systems in compliance with all the other
17 provisions of Chapter 62, Florida Administrative Code, not previously
18 mentioned?

19 A. Yes.

20 Q. Has Picciola Island been the subject of any Department of Environmental
21 Protection enforcement action within the past two years?

22 A. No.

23 Quail Ridge Water System

24 Q. Does the utility have a current construction permit from the FDEP for
25 Quail Ridge Water System (Quail Ridge)?

- 1 A. No.
- 2 Q. Are the utility's treatment facilities and distribution system
3 sufficient to serve its present customers?
- 4 A. Yes.
- 5 Q. Does the utility maintain the required 20 psi minimum pressure
6 throughout the distribution system?
- 7 A. Yes.
- 8 Q. Does the utility have an adequate auxiliary power source in the event
9 of a power outage?
- 10 A. No. According to Rule 62-555.320(6), Florida Administrative Code, an
11 auxiliary power source is required if the community water system serves 350
12 or more persons or if the system has 150 or more service connections.
13 According to the most recent monthly operation report, there are 28 service
14 connections and 98 people served by this water system. Therefore, an auxiliary
15 power source is not required.
- 16 Q. Are the utility's water wells for Quail Ridge located in compliance with
17 Rule 62-555, Florida Administrative Code?
- 18 A. Yes.
- 19 Q. Does the utility have certified operators as required by Rule 61E12-41,
20 Florida Administrative Code?
- 21 A. Yes.
- 22 Q. Has the utility established a cross-connection control program in
23 accordance with Rule 62-555.360, Florida Administrative Code?
- 24 A. Yes. Southern States Utilities, Inc. has established a cross-connection
25 control program for all of its water systems.

1 Q. Is the overall maintenance of the treatment plant and distribution
2 facilities satisfactory?

3 A. Yes.

4 Q. Does the water produced by the utility meet the State and Federal
5 maximum contaminant levels for primary and secondary water quality standards?

6 A. Yes.

7 Q. Does the utility monitor the organic contaminants listed in Rule
8 62-550.410, Florida Administrative Code?

9 A. Yes. The utility monitors for volatile organic contaminants and for
10 pesticides and polychlorinated biphenyls. However, the utility submitted a
11 waiver in 1993 for unregulated organic contaminants monitoring, since the
12 system is eligible for the waiver.

13 Q. Do recent chemical analyses of raw and finished water, when compared to
14 regulations, suggest the need for additional treatment?

15 A. No.

16 Q. Does the utility maintain the required chlorine residual or its
17 equivalent throughout the distribution system?

18 A. Yes.

19 Q. Are the plant and distribution systems in compliance with all the other
20 provisions of Chapter 62, Florida Administrative Code, not previously
21 mentioned?

22 A. Yes.

23 Q. Has Quail Ridge been the subject of any FDEP enforcement action within
24 the past two years?

25 A. No.

Skycrest Water System

- 1 |
2 | Q. Does the utility have a current construction permit from the FDEP for
3 | Skycrest Water System (Skycrest)?
4 | A. No.
5 | Q. Are the utility's treatment facilities and distribution system
6 | sufficient to serve its present customers?
7 | A. Yes.
8 | Q. Does the utility maintain the required 20 psi minimum pressure
9 | throughout the distribution system?
10 | A. Yes.
11 | Q. Does the utility have an adequate auxiliary power source in the event
12 | of a power outage?
13 | A. Yes.
14 | Q. Are the utility's water wells for Skycrest located in compliance with
15 | Rule 62-555, Florida Administrative Code?
16 | A. Yes.
17 | Q. Does the utility have certified operators as required by Rule 61E12-41,
18 | Florida Administrative Code?
19 | A. Yes.
20 | Q. Has the utility established a cross-connection control program in
21 | accordance with Rule 62-555.360, Florida Administrative Code?
22 | A. Yes. Southern States Utilities, Inc. has established a cross-connection
23 | control program for all of its water systems.
24 | Q. Is the overall maintenance of the treatment plant and distribution
25 | facilities satisfactory?

1 A. Yes.

2 Q. Does the water produced by the utility meet the State and Federal
3 maximum contaminant levels for primary and secondary water quality standards?

4 A. Yes.

5 Q. Does the utility monitor the organic contaminants listed in Rule
6 62-550.410, Florida Administrative Code?

7 A. Yes.

8 Q. Do recent chemical analyses of raw and finished water, when compared to
9 regulations, suggest the need for additional treatment?

10 A. No.

11 Q. Does the utility maintain the required chlorine residual or its
12 equivalent throughout the distribution system?

13 A. Yes.

14 Q. Are the plant and distribution systems in compliance with all the other
15 provisions of Chapter 62, Florida Administrative Code, not previously
16 mentioned?

17 A. Yes.

18 Q. Has Skycrest been the subject of any FDEP enforcement action within the
19 past two years?

20 A. No.

21 Q. Do you have anything further to add?

22 A. No, I do not.

23

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1 MR. PELLEGRINI: The witness is available
2 for cross examination.

3 CHAIRMAN CLARK: Mr. Beck.

4 MR. BECK: No questions.

5 CHAIRMAN CLARK: Mr. Jacobs.

6 MR. JACOBS: No questions.

7 MR. TWOMEY: I have just a few.

8 **CROSS EXAMINATION**

9 BY MR. TWOMEY:

10 Q Good morning Mr. De Paiva?

11 A Good morning.

12 Q On Page 3 of your direct testimony you
13 indicate at the time of your last inspection of the
14 Valencia Terrace system it was owned by Lake Utilities
15 Company, correct?

16 A Correct.

17 Q I wanted to ask you how often do you make
18 inspections of these systems the size of Valencia
19 Terrace?

20 A I try to go out once a year but it doesn't
21 necessarily happen that way. Let me try to see when
22 the last one was conducted. About a year and a half
23 ago it was due for an inspection.

24 Q And by that inspection you mean actual
25 physical on-site inspection?

1 A Correct.

2 Q In the interim, between such physical
3 on-site visits, do you individually or personally make
4 record checks of these utilities you're responsible
5 for?

6 A Personally I do not, no.

7 Q Do you have other personnel that do that?

8 A The monitoring is conducted every three
9 years and other people handle that aspect of it.

10 Q I see. So if I understand you correctly,
11 then the other personnel at DEP follow the monthly
12 monitoring and so forth, and you, as an engineer, try
13 and make the on-site visits every year if you can, but
14 failing that, as soon as you can work it in your
15 schedule?

16 A Correct.

17 Q And the purpose of your inspections are to
18 what? To look for physical --

19 A I look at the water plant see if there's any
20 deficiencies as far as the operation and maintenance
21 of the plant.

22 Q You look for visable signs of noncompliance,
23 ponding, pooling, that kind of thing?

24 A Correct. Ponding and pooling would be
25 mostly wastewater plants.

1 The sanitary survey is conducted every three
2 years and that's a very in-depth inspection. That's
3 where I look at the file and records, monitoring
4 records and everything. And a compliance inspection
5 is conducted once a year and that's just an on-site
6 inspection.

7 Q You do the three year inspection; that's one
8 of your functions as well?

9 A Correct.

10 Q Are you able to keep a three-year schedule
11 with most of your systems?

12 A I try.

13 Q On page, the next Page 4, of your system --
14 how do you pronounce P-I-C-C?

15 A Picciola.

16 Q Okay. That system, is that the same
17 situation that we just talked to the other gentlemen
18 about in terms of the acceptance of the wells being
19 too close?

20 A Yes, that's correct.

21 Q Typically does DEP grant those waivers of
22 those acceptances for those situations?

23 A Generally we do as long as the monitoring
24 report and the bacteriological report and chemical
25 monitoring, as long as they are all satisfactory, then

1 we will accept the present distance.

2 Q If they become unacceptable, do you actually
3 make the system physically move the well?

4 A Either that or we'll look at alternatives,
5 other things we can look at.

6 Q Okay. Lastly, on Page 7 of your testimony,
7 again for that system, is the absence of having the
8 monitoring for unregulated organic contaminants is due
9 to the size of the system, correct?

10 A Correct.

11 Q Help me just a minute. When a system is
12 smaller than -- what is the basis for allowing a
13 waiver just because of the size of the system? Are
14 there ever checks made for those chemicals or
15 contaminants that the people of larger systems would
16 otherwise be protected from? How is that handled?

17 A If they have 150 or more service
18 connections.

19 Q Yes.

20 A Or more than 350 people then they are
21 required to monitor for unregulated. And it's
22 stipulated in the Florida Statutes or Florida
23 Administrative Code. And if they have less than the
24 number of people or service connections, they can
25 apply for this waiver and we will normally grant the

1 waiver. If, however, we determine that they should
2 monitor for UOCs, then we'll request them to, and in
3 the future request them to.

4 Q Yes. But if they ask for the waiver and
5 they receive it, do you require them, or does your
6 agency ever go out and examine the water produced from
7 these systems for the contaminants that you require
8 larger systems to conduct on a periodic basis?

9 A No, we do not.

10 MR. TWOMEY: Okay. Thank you very much.
11 That's all I have, Madam Chairman.

12 CHAIRMAN CLARK: Mr. Armstrong.

13 **CROSS EXAMINATION**

14 BY MR. ARMSTRONG:

15 Q Thank you, Ms. de Paiva. You referred to
16 the fact that there are waivers for the smaller
17 systems, systems serving smaller populations. The
18 flip side of that is these tests must be performed for
19 the larger systems, correct?

20 A Correct.

21 Q So you would agree there's an additional
22 cost of operating those larger systems consistent with
23 the additional cost of doing the testing, correct?

24 A Correct.

25 CHAIRMAN CLARK: Thank you very much.

1 Redirect.

2 MR. PELLEGRINI: Nothing on redirect.

3 CHAIRMAN CLARK: Thank you very much,
4 Ms. de Paiva.

5 That concludes the witnesses that we have
6 this morning by teleconference. Let me say to all
7 three of you, I certainly appreciate you taking the
8 time out today to testify, and please indicate to your
9 supervisors there at the DEP that we thank you very
10 much for assisting us in presenting testimony today.

11 With that, you are excused and I guess we
12 can disconnect the teleconference line. Thank you
13 very much. O&M owe teleconferencing is over.

14 (Witness de Paiva excused.)

15 - - - - -

16 (Transcript continues in sequence in Volume 23.)

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DOCKET 950495-WS



EXHIBIT NO. 166

NO. 96-04227

Department of
Environmental Protection

F

Lawton Chiles
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

CERTIFIED
Z 184 856 969

SOUTHERN STATES UTILITIES INC
1000 COLOR PLACE
APOPKA FL 32703

WARNING LETTER No. OWL-DW-94-0013

Attention: Rafael A. Terrero, P.E.
Manager Environmental Services

-Volusia County - DW
Stone Island S.T.P. and Collection/Transmission System

Dear Mr. Terrero:

A field inspection conducted on August 3, 1994 of the Stone Island S.T.P. and Collection/Transmission System, in response to a complaint, indicates that a violation of Chapter 403, Florida Statutes, and the rules promulgated thereunder may exist at the above described facility. Department personnel noted the following about the above described facility:

1. Failure to notify the Department regarding collection/transmission system operational difficulties that resulted in an overflow to a private residence.

Also, the Department was not notified, that during heavy rains, the sewage treatment plant experienced operational difficulties that resulted in the unauthorized hauling of wastewater to the Deltona Lakes S.T.P.

2. Modification of the subject collection/transmission system without approval from the Department. An overflow pipe was installed for the purpose of diverting flow from the subject system.
3. Failure to maintain the Stone Island sprayfield and percolation ponds as required by Specific Conditions Nos. 11 and 12 of Operating Permit No. DO64-221990 and Department rules.

It is a violation for a facility to fail to comply with the following:

- A. Florida Administrative Code Rule 17-604.550 Abnormal Events. (1) In the event of equipment breakdown, power outages, destruction by hazard of fire, wind, or by other cause, the permittee shall notify the Department and the local program (where existing) when the above described abnormal events result in the disposal of inadequately treated waste in violation of Rule 17-604.130(1), F.A.C. Notification

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET
NO. 950495-WS EXHIBIT NO 166
COMPANY/ FPSC/Anderson, C.C.
WITNESS:
DATE: 4/29/96

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

Printed on recycled paper.

DOCUMENT NUMBER-DATE

02345 FEB 25 88

FPSC-RECORDS/REPORTING

Southern States Utilitie Inc.
Warning Letter No. OWL-DW-94-0013
Page 2

- shall be made in person, by telephone, or by telegraph to the nearest office of the Department and the local program within 24 hours of breakdown or malfunction.
- B. Florida Administrative Code Rule 17-600.740 Reporting, Compliance, and Enforcement. (2) Violations The following acts and the causing thereof are prohibited. (a) The release or disposal of excreta, sewage, or other wastewaters or domestic wastewater residuals without providing proper treatment approved by the Department or otherwise violating provisions of this rule or other rules of the Florida Administrative Code.
 - C. Florida Administrative Code Rule 17-4.030 General Prohibition. Any stationary installation which will reasonably be expected to be a source of pollution shall not be operated, maintained, constructed, expanded, or modified without the appropriate and valid permits issued by the Department, unless the source is exempted by Department rule.
 - D. Florida Statutes, Chapter 403.161 Prohibitions, violations, intent. (1) It shall be a violation of this chapter, and it shall be prohibited for any person: (b) To fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the Department pursuant to its lawful authority.
 - E. Florida Administrative Code Rule 17-600.410 Operation and Maintenance Requirements. (2) All reuse and land application systems shall be operated and maintained in accordance with the applicable provisions of this chapter and the provisions of Chapter 17-610, F.A.C.
 - F. Florida Administrative Code Rule 17-610.523 Hydraulic Loading Rates and Cycles (6) Rapid rate systems shall be routinely maintained to control vegetation growth and to maintain percolation capability by scarification or removal of deposited solids.

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.

You are requested to contact Al Castro, P.E. or Clarence Anderson of this office at (407) 894-7555 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 consult an attorney and 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

Southern States Utilities, Inc.
Warning Letter No. DW-94-0013
Page 3

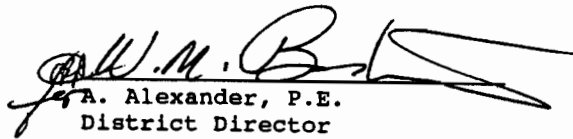
Department determines that an enforcement proceeding should be initiated in this case; it may be initiated by issuing a Notice of Violation or by filing a judicial action in accordance with Section 403.121, Florida Statutes. If the Department issues a Notice of Violation, and you are named as a party, 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.

SUBMITTED BY:



Carlos Rivero-deAguilar, P.E.
Program Administrator
Water Facilities

Sincerely,



J. A. Alexander, P.E.
District Director

Date: 8/18/94

AA/ac/jb



File Copy
Department of
Environmental Protection

JUD. M.
Summa
Dr. J. P. Pugh
Escalante Summa
1995

Lawton Chiles
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

CERTIFIED MAIL
Z 188 599 318

SOUTHERN STATES UTILITIES INC
1000 COLOR PLACE
APOPKA FL 32703

OCD-C-DW-95-0895

ATTENTION RAFAEL A TERRERO P E
MANAGER ENVIRONMENTAL SERVICES

Volusia County - DW
Stone Island WWTP and Collection/Transmission System
OGC Case No. 95-1029

Dear Mr. Terrero:

Enclosed is a revised Consent Order prepared by this Department for resolution of the referenced enforcement case. Some revisions requested, by Carlyn H. Kowalsky of your company, could not be incorporated in the Consent Order due to this office's need to adhere to prescribed Department policies and guidelines.

The Department believes that this revised Consent Order adequately addresses the resolution of the issues in this case and requests that you review this document, and if satisfactory, sign and date the appropriate spaces and forward same to this office within the next fourteen (14) days. A copy of the completed document will be forwarded to you upon entry by the Director of District Management.

Should the revised Consent Order be unacceptable, please provide this office with written notification within twenty (20) days. Also, any specific comments that you may have should be handwritten on the attached Consent Order and returned to this office for review along with your written notification.

If you have any questions about the terms of this Consent Order, please contact Al Castro, P.E. or Clarence Anderson at (407) 893-3313.

Sincerely,

Christanne C. Ferraro, P.E.
Vivian F. Garfein
for
Director of District Management

Date September 13, 1995

R 180
VFG/ga/bn

Enclosure

DEP CERTIFIED MAIL NO.: _____

BEFORE THE STATE OF FLORIDA
 Department of Environmental Protection

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION,)	CENTRAL DISTRICT
)	
Complainant,)	
)	OGC FILE NO. 95-1029
vs.)	
)	
SOUTHERN STATES UTILITIES, INC.,)	
As Court Appointed Receiver)	
for Enterprise Utilities)	
)	
Respondent.)	
_____)	

CONSENT ORDER

This Consent Order is made and entered into between the State of Florida Department of Environmental Protection ("Department") and Southern States Utilities, Inc. ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes, and the rules promulgated thereunder, Florida Administrative Code Title 62. The Department has jurisdiction over the matters addressed in this Consent Order.
2. Respondent is a person within the meaning of Section

403.031(5), Florida Statutes.

3. The Respondent is responsible for the operation of the Stone Island WWTP, a 0.050 MGD contact stabilization wastewater treatment plant with chlorinated effluent to a 17,100± square foot percolation pond and a 2.25 ± acre spraysite ("Plant"). The Respondent is also responsible for the operation and maintenance of the collection/transmission system ("Area System") that services the area. The Plant is located at Arrowhead Road, Enterprise, Volusia County, Florida, Latitude 28°51'00" North, Longitude 81°15'00" West. The Plant and Area System were constructed by Enterprise Utilities which went bankrupt in the early 1980's. As a result, the Respondent was appointed receiver for the utility by the Circuit Court of Volusia County on May 4, 1982.

4. Respondent operates the Plant under Department permit No. DO64-221990 which expires on August 28, 1998. The Plant and Area System service area, Stone Island, is a low-lying island located on the north side of Lake Monroe, in Volusia County. The island is occupied by single family homes, many of which, the Respondent contends, were constructed below the floodplain of the lake. The Respondent also contends that one private residence ("Private Residence") was originally constructed at a lower elevation than the rest of the Area System and as a result has historically experienced problems with sewage backing up into the Private Residence. The Respondent contends that during the heavy rains

that occurred in late July 1994, one of the manhole covers within the Area System became dislodged, thereby allowing rainwater to enter the sewage collection system. When a severe storm occurred on July 31, 1994, a temporary overflow pipe failed to protect the Private Residence from a sewage backup. In response to a phone call, Respondent's personnel converged on the Private Residence and removed the excess wastewater from the Area System thereby avoiding any further overflows. The wastewater removed from the Area System was transported by pump truck to another facility operated by the Respondent. Respondent's personnel overlooked the responsibility of notifying the Department of these abnormal events as required by Respondent's operating policy and Department Rules.

5. On August 3, 1994, in response to a complaint received on August 2, 1994, Department personnel inspected the Plant and the Area System. During the inspection of the Private Residence, an unauthorized overflow pipe was discovered that connected the Private Residence to the Area System and could possibly discharge to surface water and public access areas. Information obtained by Department personnel revealed that sewage backups to the Private Residence had occurred on at least two or three other occasions and that the pipe was installed in December 1993, the last time the back up had occurred. The Respondent removed the pipe immediately after discovery by the Department. During the inspection of the Plant, Department personnel observed that the

sprayfield and the percolation pond were not being maintained as required by the operating permit.

6. As a result of the complaint inspection, the Department issued a Warning Letter on August 18, 1994 alleging the following violations of Department rules: (1) Failure to notify the Department of abnormal events, (2) Modification of a collection/transmission system without approval from the Department, and (3) Failure to maintain the disposal areas as required by the operating permit.

7. On November 10, 1994, a meeting was held between the Department and the Respondent to discuss the issues addressed in the Warning Letter. To minimize the potential for overflows and backups in the Area System, the Respondent has installed new pumps in the master lift station and a telemetry system to monitor the operation of the station. To address maintenance of the disposal areas, the Respondent has hired a private contractor to perform quarterly maintenance of the sprayfield. Respondent has agreed to connect the Area System to the Deltona Lakes WWTP collection system by August 1, 1996 and decommission the Plant in accordance with the schedule submitted to the Department by the Respondent on March 28, 1995. The Department understands that the time lines in the construction schedule are estimates, not deadlines and that delays could occur due to easement acquisition, permits, etc. The Respondent has agreed to submit monthly project status reports beginning in August 1995.

Having reached a resolution of the matter pursuant to Florida Administrative Code Rule 62-103.110(3), Department and the Respondent mutually agree and it is,

ORDERED:

8. It is the intent of this Consent Order to require the Respondent to divert flow from the Plant to the Respondent's Deltona Lakes wastewater collection/transmission system ("System") and then decommission the Plant. Within 150 days of the effective date of this Consent Order, Respondent shall submit a permit application, along with the appropriate permit fee, to the Department to construct a wastewater collection/transmission system to divert flow from the Plant to the System. The application shall be prepared and sealed by a professional engineer registered in the State of Florida. This tie in shall be constructed, certified complete and put into operation on or before August 1, 1996. In the event Respondent's application to tie into the System is denied, then within 90 days of the denial Respondent shall submit to the Department a permit application to construct a modification of the Plant that will bring the Plant into full compliance with Department rules concerning wastewater treatment and disposal. The modification may require an expansion of the Plant's disposal system. Any permit application shall be prepared and sealed by a professional engineer registered in the State of Florida. In the event that the application submitted is incomplete, within 30 days of written request by the Department

for additional information necessary to process the application, Respondent shall submit all requested information to the Department. Within 270 days from issuance of the construction permit, Respondent shall complete the construction as authorized by the construction permit. Within 30 days of completion of construction, Respondent shall submit the appropriate Certification of Completion of Construction signed and sealed by the project engineer. If the Respondent is unable or unwilling to take the Plant off-line or to construct a modification of the Plant's disposal system as provided in this paragraph, the Department reserves the right to seek other relief to require the Respondent to comply with its rules and permits.

9. At least 90 days prior to taking the Plant off-line, Respondent shall submit a plan to the Department which describes how the Respondent will abandon the Plant as well as the disposal system. Proper abandonment includes, as appropriate, pumping the Plant dry, disinfection of the Plant's components, disconnecting the force mains, disconnecting the electrical systems, ensuring that water does not collect in the Plant, removal of the Plant, removing the drain plugs or installing permanent drains which will ensure that water does not collect in the Plant, removing and properly disposing of any accumulated sludge and debris in the disposal system and scarifying the bottoms. Once the plan is approved by the Department, the Respondent shall implement the plan. The plan shall be completed no later than 60 days after the

Plant is taken off-line, or no later than 60 days after the Department approves the plan, whichever is later.

10. Within 30 days of effective date of this Consent Order, Respondent shall pay the Department \$ 9,070.00 in settlement of the matters addressed in this Consent Order. This amount includes \$ 8,720.00 in civil penalties for alleged violations of Section 403.161, Florida Statutes, and of the Department's rules and \$ 350.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Payment shall be made by cashier's check or money order. The instrument shall be made payable to the Department of Environmental Protection and shall include thereon the OGC number assigned to this Consent Order and the notation "Pollution Recovery Fund". The payment shall be sent to the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

11. Respondent agrees to pay the Department stipulated penalties in the amount of \$ 100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 8, 9 and 10 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Protection" by cashier's check or money order and shall include

thereon the OGC number assigned to this Consent Order and the notation "Pollution Recovery Fund". Payment shall be sent to the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767. The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 10 of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this paragraph.

12. If any event occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the

control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

13. Respondent shall publish the following notice in a newspaper of daily circulation in Volusia County, Florida. The notice shall be published one time only within 21 days after execution of the Consent Order by the Department.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with Southern States Utilities, Inc., as court appointed receiver for Enterprise Utilities, pursuant to Rule 62-103.110(3), Florida Administrative Code. The Consent Order addresses failure to notify the Department of operational difficulties and modification of a collection system without Department approval in the vicinity of Stone Island Subdivision, Enterprise, Florida. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

Persons whose substantial interests are affected by this Consent Order have a right to petition for an administrative hearing on the Consent Order. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an

administrative hearing pursuant to Section 120.57, Florida Statutes.

The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number for the Consent Order and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above

address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 60Q-2.010, Florida Administrative Code.

14. Entry of this Consent Order does not relieve Respondent of the need to comply with the applicable federal, state or local laws, regulations or ordinances.

15. The terms and conditions set forth in this Consent Order 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 Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

16. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per offense and criminal penalties.

17. Respondent shall allow all authorized representatives of the Department access to the property and Plant at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules of the Department.

18. All plans, applications, penalties, stipulated penalties, costs and expenses, and information required by this Consent Order

to be submitted to the Department should be sent to Program Manager, Domestic Waste Section, Florida Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

19. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

20. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations outlined in this Consent Order. Respondent acknowledges but waives its right to an administrative hearing pursuant to Section 120.57, Florida Statutes, on the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, but waives that right upon signing this Consent Order.

21. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their directors, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.

22. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.

23. If all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 14 days prior to a sale or conveyance of the property or Plant, (1) notify the Department of such sale or conveyance, and (2) provide a copy of this Consent Order with all attachments to the new owner.

24. This Consent Order is a settlement of the Department's civil and administrative authority arising from Chapters 403 and 376, Florida Statutes, to pursue the allegations addressed herein. This Consent Order does not address settlement of any criminal liabilities which may arise from Sections 403.161(3) through (5), 403.413(5), 403.727(3)(b), 376.302(3) and (4), or 376.3071(10), Florida Statutes, nor does it address settlement of any violation which may be prosecuted criminally or civilly under federal law.

25. This Consent Order is final agency action of the Department pursuant to Section 120.69, Florida Statutes, and Florida Administrative Code Rule 62-103.110(3), and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

_____ Date

_____ Scott W. Vierima
President

DONE AND ORDERED this _____ day of _____, 1995, in
Orlando, Orange County, Florida

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

_____ Vivian F. Garfein
Director of District Management
Central District
3319 Maguire Boulevard
Suite 232
Orlando, Florida 32803-3767

FILING AND ACKNOWLEDGMENT
FILED, on this date, pursuant
to §120.52, Florida Statutes,
with the designated Department
Clerk, receipt of which is hereby
acknowledged.

_____ CLERK

_____ Date

DW
CCF 10/18/95
Gue
CA



Southern States Utilities • 1000 Color Place • Apopka, FL 32703 • 407/880-0058

October 11, 1995



Ms. Vivian Garfein
Director of District Management
Florida Department of Environmental Protection
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

RE: Volusia County - DW
Stone Island WWTP

Dear Ms. Garfein:

This is in response to the Department's proposed revised Consent Order regarding the above-referenced facility.

SSU presently operates the Stone Island wastewater facility as a court-appointed receiver. The facility was originally constructed by the developer of the area and has functioned under less than optimal conditions since the time SSU's predecessor (Deltona Utilities) was appointed receiver. Following the heavy rains during 1994, and the operational difficulties resulting from those rains, SSU undertook serious evaluation of what would be necessary to overhaul the wastewater system to prevent further operational problems. Our investigation reveals that it would take an initial investment of about \$800,000 to construct an interconnect from the existing Stone Island wastewater collection system to transmit the wastewater to SSU's Deltona wastewater facility.

During the fall of 1994, the Florida Public Service Commission (FPSC) issued an order allowing SSU to operate as one state-wide utility system and to utilize a state-wide uniform rate structure for all facilities it operates across the state. Under a state-wide rate structure, SSU can spread the costs of all capital improvements over approximately 160,000 customer accounts. Under that scenario, SSU was prepared to undertake the \$800,000 investment for the wastewater improvements at Stone Island. Recently, the FPSC has overturned its earlier decision and has held that SSU will not be permitted to operate as one state-wide utility, but rather, may be required to structure its utility rates on a "stand-alone" basis. This means that the \$800,000



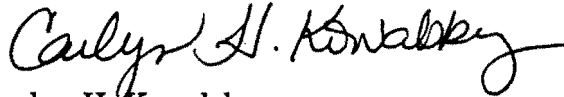
Ms. Vivian Garfein
October 11, 1995
Page 2

capital improvements necessary for the Stone Island interconnect would have to be paid exclusively by about 130 wastewater customers at Stone Island. If SSU attempted to recover \$800,000 of capital improvements from only 130 customers, it would result in exorbitantly high wastewater rates for those customers, thereby making those improvements infeasible.

Based on this present economic situation SSU will regrettably not be able to implement the interconnect between Stone Island and the Deltona wastewater facility.

We look forward to meeting with you to discuss this further.

Sincerely,



Carlyn H. Kowalsky

c: Al Castro
Clarence Anderson - *FAXED*



Florida Department of Environmental Protection

Lawton Chiles
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

CERTIFIED MAIL
P 232 481 301

Lake Utilities Company
Post Office Box 5252
Lakeland, FL 33807

WARNING LETTER No. OWL-DW-93-0026

Attention: Raymond Moats
Vice President

Lake County - DW
Valencia Terrace Subdivision Collection System

Dear Mr. Moats:

A field inspection conducted on September 14, 1993 of Valencia Terrace Subdivision indicates that a violation of Chapter 403, Florida Statutes, and the rules promulgated thereunder may exist at the above described system. Department personnel observed the following about the above described system:

1. Failure to notify the Department about a raw sewage spill from the subject system on September 10, 1993.
2. Modification of the collection system without approval from the Department. A pipe was installed in a sewer main which can divert flow from the collection system.

It is a violation for a facility to fail to comply with the following:

- A. Florida Administrative Code Rule 17-604.550(1) - In the event of equipment breakdown, power outages...the permittee shall notify the Department and the local program (where existing) when the above described abnormal events result in the disposal of inadequately treated waste in violation of Rule 17-604.130(1). Notification shall be in person, by telephone, or by telegraph to the nearest office of the Department and the local program within 24 hours of breakdown or malfunction.
- B. Florida Administrative Code Rules 17-600.740(2)(a) and 17-604.130(1) - prohibits the release of excreta, sewage or other wastewaters or sludge without providing proper treatment.
- C. Florida Administrative Code Rule 17-4.030 - prohibits operation/construction/expansion/modification of a pollution source without the appropriate permits.
- D. Section 403.161(1)(b)(2) - Florida Statutes, prohibits violation of Statute or Code.


Lake Utilities Company
Warning Letter No. OWL-DW-93-0026
Page 2

You are advised that any activity at your system that may be contributing to violations of the above described statutes and rules should be ceased immediately. Operation of a system 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.

You are requested to contact Al Castro, P.E. or Clarence Anderson of this office at (407)894-7555 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 consult an attorney and 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,


A. Alexander, P.E.
District Director

Date: 

AA/ca/jb



Florida Department of Environmental Protection

Lawton Chiles
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

CERTIFIED
P 280 849 643

Lake Utilities Company
Post Office Box 5252
Lakeland, FL 33807

OCD-CE-DW-94-0102

Attention: Raymond Moats
Vice President

Re: Proposed Settlement by Short Form Consent Order in Case of Valencia Terrace
Subdivision Collection System, OGC File No.: 94-0554

Dear Mr. Moats:

The purpose of this letter is to complete the settlement of the violation(s) previously identified by the Department of Environmental Protection ("DEP") in the Warning Letter OWL-DW-93-0026 dated September 30, 1993 which is attached. The corrective actions required to bring your facility into compliance have been performed. However, you must pay to the Department the amount of \$1000.00 in civil penalties to complete settlement of the violations described in the attached Warning Letter. 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 Central District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767, within thirty (30) days of your signing this letter.

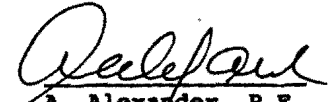
Your signing of this letter where indicated at the end of page two of this letter constitutes your acceptance of DEP's offer to settle this case on these terms. If you sign this letter, please return it to DEP at the address above. DEP will then countersign the letter and file it with the Clerk of the 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.

By countersigning this settlement offer, the DEP waives its right to seek judicial imposition of damages, costs and expenses, or civil penalties for the violations described above. By accepting this offer of settlement, you waive your rights as described on the back of this document in the Notice of Rights. If you do not sign and return this letter to the Department at the Central District address given above by within twenty (20) days, it will be referred to the DEP's Office of General Counsel with a recommendation that formal

Company
Lake Utilities
OCD-CE
Page 2

action be taken against you. None of your rights or substantial
enforce are determined by this letter unless you sign it and it is filed with
interk.
the

Sincerely,


A. Alexander, P.E.
District Director
DATE 2-18-94

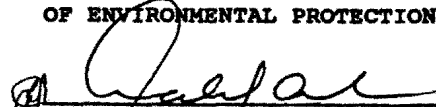
I ACCEPT THE TERMS OF THIS SETTLEMENT OFFER.

For: Lake Utilities Company

By:  P.E.

Date: 2/22/94

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION


A. Alexander, P.E.
District Director

ENTERED this 1 day of March, 1994, in Orlando, Florida.

FILING AND ACKNOWLEDGMENT FILED, on
this date, pursuant to §120.52,
Florida Statutes, with the
designated Department Clerk, receipt
of which is hereby acknowledged.


CLERK
Date 3/2/94

AA/CAF
AA/ca/jb

Attachments

NOTICE OF RIGHTS

Persons whose substantial interests are affected by the proposed agency action described in this document have a right, pursuant to Section 120.57, F.S., to petition for an administrative determination (hearing) on the proposed action. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the (persons named) above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, F.S.

The petition shall contain the following information:

- (a) The name, address, and telephone number of each petitioner; the Department's identification number and the county in which the subject matter or activity is located;
- (b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action;
- (d) A statement of the material facts disputed by petitioner, if any;
- (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action;
- (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action;
- (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action;

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject agency (proposed) action have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed.

* * * * *

A party who is adversely affected by this Consent Order is entitled to Judicial Review pursuant to Section 120.68, F.S. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Agency Clerk of the Division of Administrative Hearings and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The Notice of Appeal must be filed within 30 days of rendition of the Order to be reviewed.

F



Department of Environmental Protection

Lawton Chiles
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

CERTIFIED
Z 184 856 984

SOUTHERN STATES UTILITY SERVICES
1000 COLOR PLACE
APOPKA FL 32703

WARNING LETTER No. OWL-DW-94-0014

Attention: Rafael A. Terrero, P.E.
Manager Environmental Services

Volusia County - DW
Deltona Lakes, W.W.T.P. and Reuse Service Area

Dear Mr. Terrero:

A field inspection conducted on August 22, 1994 of the Deltona Lakes, W.W.T.P. and Reuse Service Area, in response to a malfunction report, indicates that a violation of Chapter 403, Florida Statutes, and the rules promulgated thereunder may exist at the above described facility. Department personnel noted the following about the above described facility:

1. An unauthorized discharge of reclaimed water to Lake Fisher. Permit No. DO64-196923 stipulates in the operate description that there will be "no discharge to surface waters".
2. An unauthorized discharge of reclaimed water to Lake Monroe. The pumping station at the holding pond at the plant was in operation and was pumping reclaimed water from the holding pond to Lake Monroe. In accordance with the referenced permit, this activity is not permitted by the Department.
3. The Department is very concerned about existing wet weather storage capacity in the Reuse Service Area.

It is a violation for a facility to fail to comply with the following:

- A. Florida Statutes, Chapter 403.161 Prohibitions, violations, intent. (1) It shall be a violation of this chapter, and it shall be prohibited for any person: (b) To fail to obtain any permit required by this chapter or by rule or regulation, or to violate or fail to comply with any rule, regulation, order, permit, or certification adopted or issued by the Department pursuant to its lawful authority.

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

Printed on recycled paper.

Southern States Utility Services
 Warning Letter No. OWL-DW-94-0014
 Page 2

- B. Florida Statutes, Chapter 403.088 Water pollution operation permits; temporary permits; conditions. (1) No person, without written authorization of the Department, shall discharge into waters within the State any waste which, by itself or in combination with the wastes of other sources, reduce the quality of the receiving waters below the classification established for them.
- C. Florida Administrative Code Rule 62-650.100¹ Scope/Intent/Purpose
 (1) Section 403.021(2), Florida Statutes, as amended, the Florida Air and Water Pollution Control Act, established that no wastes are to be discharged to any waters of the State without first being given the degree of treatment necessary to protect the beneficial uses of such water.
- D. Florida Administrative Code Rule 62-600.740¹ Reporting, Compliance, and Enforcement. (2) Violations The following acts and the causing thereof are prohibited: (a) The release or disposal of excreta, sewage, or other wastewaters or domestic wastewater residuals without providing proper treatment approved by the Department or otherwise violating provisions of this rule or other rules of the Florida Administrative Code.

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.

You are requested to contact Al Castro, P.E. or Clarence Anderson of this office at (407) 894-7555 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 consult an attorney and have the attorney attend the meeting with the Department.

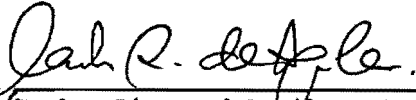
PLEASE BE ADVISED that this Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. The purpose of this letter is to advise you of potential violations and to set up a meeting to discuss possible resolutions to any potential 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

¹ (Former Rules 17-650.100 and 17-600.740)

Southern States Utility Services
Warning Letter No. OWL-DW-94-0014
Page 3

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.

SUBMITTED BY:


cc Carlos Rivero-deAguilar, P.E.
Program Administrator
Water Facilities

Sincerely,


A. Alexander, P.E.
District Director

Date: 9-1-94

AP
AA/ac/jb
bc: Lee Miller



Department of Environmental Protection

Lawton Chiles
Governor
CERTIFIED MAIL
2 188 599 323

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Virginia B. Wetherell
Secretary

Handwritten notes: "KTT", "to be an original", "the return", "return address or hand it to", "POSTAGE WILL BE PAID BY ADDRESSEE (see front)"

SOUTHERN STATES UTILITIES INC
1000 COLOR PLACE
APOPKA FL 32703

OCD-C-DW-95-0952

ATTENTION RAFAEL A TERRERO P E
MANAGER ENVIRONMENTAL SERVICES

Volusia County - DW
Deltona Lakes Wastewater Treatment Plant
OGC Case No. 95-1044

Dear Mr. Terrero:

Enclosed is a revised Consent Order prepared by this Department for resolution of the referenced enforcement case. All revisions requested, by Carlyn H. Kowalsky of your company, were incorporated in the revised Consent Order.

The Department believes that this revised Consent Order adequately addresses the resolution of the issues in this case and requests that you review this document, and if satisfactory, sign and date the appropriate spaces and forward same to this office within the next fourteen (14) days. A copy of the completed document will be forwarded to you upon entry by the Director of District Management.

Should the revised Consent Order be unacceptable, please provide this office with written notification within twenty (20) days. Also, any specific comments that you may have should be handwritten on the attached Consent Order and returned to this office for review along with your written notification.

If you have any questions about the terms of this Consent Order, please contact Al Castro, P.E. or Clarence Anderson at (407) 893-3313.

Sincerely,

Christiane C. Ferraro, P.E.
Vivian F. Garfein
Director of District Management

Date Oct. 3, 1995

Handwritten initials: "VFG/ga/bn"

Enclosure

DEP CERTIFIED MAIL NO.: _____

BEFORE THE STATE OF FLORIDA
Department of Environmental Protection

STATE OF FLORIDA DEPARTMENT)	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION,)	CENTRAL DISTRICT
)	
Complainant,)	
)	OGC FILE NO.95-1044
vs.)	
)	
SOUTHERN STATES UTILITIES, INC.)	
)	
Respondent.)	
_____)	

CONSENT ORDER

This Consent Order is made and entered into between the State of Florida Department of Environmental Protection ("Department") and Southern States Utilities, Inc. ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes, and the rules promulgated thereunder, Florida Administrative Code Title 62. The Department has jurisdiction over the matters addressed in this Consent Order.
2. Respondent is a person within the meaning of Section 403.031(5), Florida Statutes.

3. Respondent is the owner and is responsible for the operation of the Deltona Lakes WWTP, a 0.900 MGD activated sludge wastewater treatment plant with tertiary filtered, high level disinfected reclaimed water discharged to two golf courses for public access irrigation, holding ponds and wet-weather storage ponds ("Plant"). The Plant is located at 401 Fisher Drive, Deltona, Volusia County, Florida, Latitude 28°52'27" North, Longitude 81°15'07" West.

4. Respondent operates the Plant under Department permit No. DO64-196923 which expires January 7, 1997. As a result of a malfunction report submitted by the Respondent, an inspection was conducted on August 22, 1994. During the inspection, Respondent stated that recent heavy rains had threatened the integrity of the berm between the on-site holding pond and Fisher lake. To avoid a breach of the berm, Respondent had allowed an unauthorized discharge from the on-site holding pond to Lake Fisher to occur through an emergency overflow pipe. This discharge resulted in flooding downstream of Lake Fisher which concerned affected homeowners. To alleviate the flooding, the Respondent began pumping the on-site holding pond water to Lake Monroe in violation of the referenced permit. An inspection of the disposal sites followed: At Deltona Hills golf course, it was noted that no wet-weather storage pond had been constructed, although the Department had authorized construction by Permit No. DC64-174187. The area surrounding the Glen Abbey golf course wet-weather

storage pond (James Pond) was flooded. Stormwater was flowing over the top of the berm from James Pond into the Glen Abbey holding pond. This condition caused the Glen Abbey holding pond to fill up with stormwater restricting its capacity to store reclaimed water. Therefore, the Respondent concluded that its only alternative to alleviate the flooding condition was to discharge to Lake Monroe. On September 1, 1994, the Department issued Warning Letter OWL-DW-94-0014 to address the aforementioned unauthorized discharges to surface waters. These discharges are violations of Chapter 403, Florida Statutes, and Department Rules 62-600 and 62-650, Florida Administrative Code.

5. A meeting to discuss/resolve the issues addressed in the referenced Warning Letter was held on November 10, 1994. During the meeting the Respondent reiterated all of the events noted in paragraph 4. The Respondent said: (1) it was negotiating with Deltona Hills golf course to construct a wet-weather storage pond site at an alternative location; (2) it would investigate the feasibility of a limited wet-weather discharge permit; (3) some of the flooding at the Glen Abbey golf course wet-weather storage pond site was due to stormwater from a new development area that inundated the wet-weather storage pond; (4) construction will continue on the FPL Easement drainfield authorized in Construction Permit No. DC64-177248; and (5) it would investigate alternative disposal methods and sites. The Central District staff agreed to hold imposition of civil penalties in abeyance provided all of the

above issues are addressed in the operating permit application review process. In a letter dated November 23, 1994, the Respondent agreed to enter a Consent Order to implement corrective actions for the issues addressed above. On December 1, 1994, a meeting was held with the Tallahassee staff to discuss the possibility of a wet-weather discharge authorization. The Respondent continues to discharge to Lake Monroe during wet-weather periods.

The Respondent has submitted applications for a wet-weather discharge permit and an operating permit. The operating permit application, File No. 234782, was received on July 21, 1993. The wet-weather discharge permit application, File No. 267505, was received on March 21, 1995. These applications are currently being processed by Department staff.

On June 30, 1995, the Department received the Certification of Completion of Construction for the FPE--Easement drainfield constructed pursuant to Permit No. DC64-177248; the drainfield has been placed in operation.

Having reached a resolution of the matter pursuant to Florida Administrative Code Rule 62-103.110(3), Department and the Respondent mutually agree and it is,

ORDERED:

Respondent shall comply with the following corrective actions within the stated time periods:

6. Upon the effective date of this Consent Order, the

Respondent shall diligently pursue the issuance of a limited wet-weather discharge authorization.

7. Upon the effective date of this Consent Order, the Respondent shall continue meaningful negotiations with the Deltona Hills Golf Course to evaluate the feasibility of constructing additional wet-weather storage or disposal at an alternative location.

8. The Respondent shall perform an engineering evaluation of the existing disposal capacity of the FPL Easement drainfield constructed pursuant to Permit No. DC64-177248. The Respondent shall submit to the Department the results of the engineering evaluation within the Engineering Report addressed in paragraph 9 of this Consent Order.

9. The Respondent shall investigate additional sites for possible use as disposal/storage areas. Since it has been determined that one of the Glen Abbey wet-weather storage sites (James Pond) is no longer available, then within 90 days of the effective date of this Consent Order, the Respondent shall submit an Engineering Report to the Department summarizing current disposal sites and capacities, possible new sites and proposed capacities and engineering recommendations to assure that the treatment facility has the required permitted disposal capacity available. Within 60 days of Department approval of the recommendations contained in the referenced Engineering Report, the Respondent shall commence the actions necessary to implement

the recommendations.

10. Within 15 days of the effective date of this Consent Order, Respondent shall provide the Department with copies of the calibration records of the flow meters at the plant and all disposal sites.

11. Upon the effective date of this Consent Order, the Respondent shall provide the Department with quarterly reports that update the progress of the tasks addressed in paragraphs 6, 7, 8 and 9.

12. Respondent shall demonstrate, during a 12 month study period following completion of the tasks addressed in paragraphs 6, 7, 8 and 9, that permitted reclaimed water disposal and wet-weather storage capacities are available. Within 30 days of completion of the study period, Respondent shall submit an engineering report documenting these capacities.

13. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department \$ 500.00 in settlement of the matters addressed in this Consent Order. This amount includes \$ 0.00 in civil penalties for alleged violations of Section 403.161, Florida Statutes, and of the Department's rules and \$ 500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Payment shall be made by cashier's check or money order. The instrument shall be made payable to the Department of Environmental Protection and shall

include thereon the OGC number assigned to this Consent Order and the notation "Pollution Recovery Fund". The payment shall be sent to the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

14. Respondent agrees to pay the Department stipulated penalties in the amount of-\$ 100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 6, 7, 8, 9, 10, 11, 12 and 13 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "Pollution Recovery Fund". Payment shall be sent to the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767. The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 13 of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this

Consent Order in an amount greater than the stipulated penalties due under this paragraph.

15. If any event occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for

performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

16. Respondent shall publish the following notice in a newspaper of daily circulation in Volusia County, Florida. The notice shall be published one time only within 21 days after execution of the Consent Order by the Department.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with Southern States Utilities, Inc. pursuant to Rule 62-103.110(3), Florida Administrative Code. The Consent Order addresses the discharge of reclaimed water, in violation of permit conditions, to Lake Fisher and Lake Monroe in the vicinity of Deltona, Florida. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

Persons whose substantial interests are affected by this

Consent Order have a right to petition for an administrative hearing on the Consent Order. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Section 120.57, Florida Statutes.

The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number for the Consent Order and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 60Q-2.010, Florida Administrative Code.

17. Entry of this Consent Order does not relieve Respondent of the need to comply with the applicable federal, state or local laws, regulations or ordinances.

18. The terms and conditions set forth in this Consent Order 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 Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

19. Respondent is fully aware that a violation of the terms

of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per offense and criminal penalties.

20. Respondent shall allow all authorized representatives of the Department access to the property and Plant at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules of the Department.

21. All plans, applications, penalties, stipulated penalties, costs and expenses, and information required by this Consent Order to be submitted to the Department should be sent to Program Manager, Domestic Waste Section, Florida Department of Environmental Protection, 3319 Maguire Blvd., Suite 232, Orlando, FL 32803-3767.

22. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

23. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations outlined in this Consent Order. Respondent acknowledges but waives its right to an administrative hearing pursuant to Section 120.57, Florida Statutes, on the terms of this Consent Order.

Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, but waives that right upon signing this Consent Order.

24. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their directors, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.

25. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.

26. If all of the requirements of this Consent Order have not been fully satisfied, Respondent shall, at least 14 days prior to a sale or conveyance of the property or Plant, (1) notify the Department of such sale or conveyance, and (2) provide a copy of this Consent Order with all attachments to the new owner.

27. This Consent Order is a settlement of the Department's civil and administrative authority arising from Chapters 403 and 376, Florida Statutes, to pursue the allegations addressed herein. This Consent Order does not address settlement of any criminal liabilities which may arise from Sections 403.161(3) through (5), 403.413(5), 403.727(3)(b), 376.302(3) and (4), or 376.3071(10), Florida Statutes, nor does it address settlement of any violation which may be prosecuted criminally or civilly under federal law.

28. This Consent Order is final agency action of the Department pursuant to Section 120.69, Florida Statutes, and Florida Administrative Code Rule 62-103.110(3), and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

Date

Scott W. Vierima
President

DONE AND ORDERED this _____ day of _____, 1995, in Orange County, Florida

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Vivian F. Garfein
Director of District Management
Central District
3319 Maguire Boulevard
Suite 232
Orlando, Florida 32803-3767

FILING AND ACKNOWLEDGMENT
FILED, on this date, pursuant to §120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

CLERK

Date

Memorandum

Florida Department of
Environmental Protection

DOCKET 950495-WS
EXHIBIT NO. 167
CASE NO. 96-04227

CENTRAL DISTRICT

TO: Charlie Pelligrini, PSC Attorney
 THROUGH: Chris Ferraro *CCF*
 THROUGH: Al Castro *AR*
 THROUGH: Gary P. Miller *GM*
 FROM: Clarence Anderson *CA*
 DATE: May 1, 1996
 SUBJECT: Testimony for Docket No. 950495-WS - Application for rate increase
 by Southern States Utilities, Inc.

Testimony Changes/Additions/Rebuttal for:

Enterprise Utilities Wastewater System

A Department letter dated February 19, 1996, addressed deficiencies noted during an inspection conducted by Department personnel on December 6, 1995, and advised that Draft Consent Order 95-1029 would be revised to reflect that this facility would not be connected to the Daltona Lakes WWTP. Southern States Utilities, Inc. (SSU) response (enclosed) dated March 12, 1996, advised of corrective actions for deficiencies, but did not address any specific comments to the Consent Order revision. SSU did refer that paperwork was being prepared to transfer receivership of this facility. A revised Draft Consent Order was sent to SSU on March 23, 1996.

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET

NO.

950495 EXHIBIT NO. 167

COMPANY/

WITNESS:

DATE

4/29/96

167

Chulota Wastewater System

In my previously filed direct testimony I stated that the plant was exhibiting hydraulic overload due to infiltration. The plant has a design capacity of 0.100 MGD and with flows of 0.050 - 0.060 MGD during August and September 1995, the plant was not hydraulically overloaded in an engineering sense. The "normal" flows for this plant are 0.035 - 0.040 MGD. The higher flows were affecting the level of treatment and quality of the effluent. The operators said that the increased flows were due to infiltration and that SSU was investigating I & I problems.

Deltona Lakes Wastewater System

The Consent Order referenced in direct testimony was executed on November 8, 1995. The Department has received a number of complaints regarding the operation of the Florida Power & Light Easement drainfield. These complaints have alleged that the disposal system is not working properly. Investigation by Department personnel confirmed that the disposal system is/has failed. The Department is drafting a Warning Letter addressing: (1) failure of the FP&L drainfield, (2) release of substandard reclaimed water to public access reuse systems, (3) insufficient staffing, (4) numerous overflows/spills at the plant and the collection system - some that were not reported, (5) violations of permit conditions and limits, and (6) recordkeeping and reporting violations for reclaimed water and ground water monitoring.

Enclosure



Southern States Utilities • 1000 Color Place • Apopka, FL 32703 • 407/880-0058

12 3/14
GW 3/14
CA 3/14

March 12, 1996

Ms. Christianne C. Ferraro, P.E.
Florida Department of Environmental Protection
3319 Maquire Blvd.
Orlando, Florida 32803-3767



Via Facsimile

Re: Stone Island WWTP and Collection/Transmission System
OGC Case No. 95-1029

Dear Ms. Ferraro:

This letter is written in response to your letter dated February 19, 1996, concerning the referenced system. I have spoken to our Operations Division concerning the December 6, 1996, inspection to report the following:

1. Excessive solids were noted in the percolation pond.

SSU Operations is currently planning for extensive maintenance on the percolation pond to remove the solids. This work is scheduled for completion by July 01, 1996.

2. Odors were noted at the percolation pond.

During a recent examination by SSU's Operation personnel, there were no odors present at the percolation pond. This situation will be closely monitored to prevent odors in the future.

In reference to proposed revisions to Consent Order No. 95-1029.

SSU is in the process of preparing the necessary documents to transfer the receivership. We will be forced to proceed with this transfer unless SSU is assured that continued operation of this facility can be economical to the company and to our customers. This concern has increased through the process of our recent rate filing. When the company requested rate relief for the Enterprise facilities, Florida Public Service Commission staff questioned whether SSU should be allowed rate recovery since the facility is in receivership. Based on this concern, SSU is not prepared to invest in major facility improvements at this time.

SSU will keep you advised of any actions from FPSC as requested.

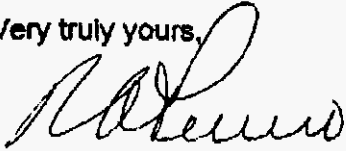


March 12, 1996
Ms. Christianne C. Ferraro

Page 2

Thank you for working with us and trusting that these answers will soothe the Departments concerns. Please feel free to contact us if you require any additional information. We would be glad to meet with you at any time to discuss these issues

Very truly yours,



Rafael A. Terrero, P.E., DEE
Manager, Environmental Services

RT/MG/mg

Ferraro1.doc

DOCKET 950495-WS
EXHIBIT NO. 168
CASE NO. 96-04227

JP 4/27
Paul Bhanu
62/4/28



Joe
See attached
Scott SAB



Southern States Utilities • 1000 Color Place • Apopka, FL 32703 • 407/885-0058

April 21, 1995

Joseph McNamara, P.E., D.E.E.
Florida Department of Environmental Protection
3319 Maguire Boulevard, Suite 232
Orlando, FL 32803-3767

RE: Tropical Park WTP
Osceola County - PW

Dear Mr. McNamara:

This letter is written in response to your letter dated March 14, 1994, concerning the Tropical Park WTP in Osceola County. We have researched our files to provide the following information:

- FDEP Item #1: When was well #1 taken off line?
SSU Response: Well #1 at Tropical Park has not been utilized since April 20, 1994.
- FDEP Item #2: When was well #2 placed back into service?
SSU Response: Well #2 was returned to service on September 30, 1994.
- FDEP Item #3: When did SSU quit using Kissimmee water on an emergency basis?
SSU Response: The interconnect with the City of Kissimmee was used to supply water to Tropical Park customers from April 20 through September 30, 1994.
- FDEP Item #4: When does SSU plan to make a decision about the future of well #1?
SSU Response: By September 31, 1995.
- FDEP Item #5: What is SSU's agreement with the City of Kissimmee?
SSU Response: Our agreement with the City of Kissimmee is a verbal agreement in which SSU is considered as one customer which may at any time require potable water in sufficient quantities to serve the 500+ residences in Tropical Park. We have requested verification from

WATER FOR FLORIDA'S **FUTURE**

FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 950495-WS EXHIBIT NO. 168
COMPANY/ WITNESS: FSPC/Breitenstein
DATE: _____

02368 FEB 26 89

FPSC-RECORDS/REPORTING

Joseph McNamara, P.E., D.E.E.

4/21/95

Page 2

the City of Kissimmee that their system can provide adequate volume and pressure to serve Tropical Park as a back-up water source to our #2 Water Treatment Plant. We will provide FDEP with this information as soon as this is received.

Regarding notification to the Department of elevated levels of iron, it was my understanding that Southern States Utilities did notify your agency last year concerning iron levels of well #1. Also, pursuant to your request, a copy of Southern States Utilities' letter dated January 12, 1995, is enclosed. I would be happy to meet with you and your staff regarding this matter at your convenience.

Sincerely,

SOUTHERN STATES UTILITIES, INC.



Bruce Paster, P.E.
Senior Engineer
Planning and Engineering

svb

Enc.

CC: Brian Wheeler, City of Kissimmee