

145

ORIGINAL
FILE COPY

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January 15, 1997

970076-WS

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

HAND DELIVERY

Re: Joint Application for Transfer of Sailfish Point Utility Corporation, the Utility Assets and Certificates 394-W and 335-S from Sailfish Point, Inc. to Sailfish Point Service Corporation, in Martin County.

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen copies of the above referenced application for transfer of Sailfish Point Utility. Also enclosed is check number 501729 in the amount of \$3,000 for the application fee (\$1,500 each for water and for wastewater).

Thank you for your assistance.

Sincerely yours,


Ben E. Girtman

- ACK _____
- AFA _____ Encls.
- AFR _____ Cc w/encls
- CAF _____ Hal Bradford, Esq.
- CMU _____ B. Kenneth Gatlin, Esq.
- CTR _____ James Krivok, Esq.
- EAG _____
- IEG _____
- LIN _____
- OPD _____
- RCH _____
- SEC _____
- WAS _____
- OTH _____

Check received with filing and forwarded to Fiscal for deposit
Fiscal to forward a copy of check to RAR with proof of deposit.

Initials of person who forwarded check:
AG

DOCUMENT NUMBER-DATE

00505 JAN 15 97

FPSC-RECORDS/REPORTING

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

144
FILE COPY

In re: Joint Application for Transfer)
of Sailfish Point Utility Corporation,)
the utility assets and)
Certificates 394-W and 335-S)
from Sailfish Point, Inc. to)
Sailfish Point Service Corporation,)
in Martin County.)

DOCKET NO. _____
Submitted for filing:
January 15, 1997

970076-WS

JOINT APPLICATION FOR TRANSFER

COME NOW applicants, Sailfish Point, Inc., (Transferor), and its wholly owned subsidiary, Sailfish Point Utility Corporation, and Sailfish Point Service Corporation (Transferee), a Florida not-for-profit corporation, and its owner, Sailfish Point Property Owners and Country Club Association, and file this joint application for the transfer of the utility corporation, its assets and its operating authority from the Transferor to the Transferee, in Martin County, Florida.

RESPECTFULLY SUBMITTED, this 15th day of January, 1997.



B. KENNETH GATLIN, Esq.
Fla. Bar # 0027966
Gatlin, Schiefelbein
& Cowdery, P.A.
1709-D Mahan Drive
Tallahassee, FL 32308
(904) 877-5609

Attorney for Transferee,
Sailfish Point Service
Corporation



BEN E. GIRTMAN, Esq.
Fla. Bar # 186039
1020 E. Lafayette St.
Suite 207
Tallahassee, FL 32301
(904) 656-3232

Attorney for Transferor,
Sailfish Point, Inc.

DOCUMENT NUMBER-DATE

00505 JAN 15 1997

FPSC-RECORDS/REPORTING

BEN E. GIRTMAN
Attorney at Law

501729
\$3,000.00

1020 East Lafayette Street
Suite 207
Tallahassee, Florida 32301-4552

Telephone: (904) 656-3232
(904) 656-3233
Facsimile: (904) 656-3233

DEPOSIT TREAS. REC. DATE

D440 444-444 JAN 15 '97

January 15, 1997

970076-WS

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

HAND DELIVERY

Re: Joint Application for Transfer of Sailfish Point Utility Corporation, the Utility Assets and Certificates 394-W and 335-S from Sailfish Point, Inc. to Sailfish Point Service Corporation, in Martin County.

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen copies of the above referenced application for transfer of Sailfish Point Utility. Also enclosed is check number 501729 in the amount of \$3,000 for the application fee (\$1,500 each for water and for wastewater).

Thank you for your assistance.

Sincerely yours,

Ben E. Girtman
Ben E. Girtman

97 JAN 15
MAIL ROOM

MOBIL LAND DEVELOPMENT CORP
1373 FREEDOM DRIVE, STE 300
RESTON, VA 22090

DATE: 11/21/96

CHECK SEQ. 25
CHECK NO. 501729

CHECK AMOUNT
*****\$3,000.00*

VOID AFTER 180 DAYS
AMOUNT-ALTERATIONS VOID CHECK

PAY THREE THOUSAND AND NO/100 DOLLARS

PAY TO THE ORDER OF
00000530261 32399-6562
STATE OF FLORIDA
PUBLIC SERVICE COMMISSION
101 E GAINES STREET
TALLAHASSEE, FL 32399-6562

WACHOVIA BANK OF NC
WINSTON-SALEM, NC 27150
88-48/531

OR Beaman

THIS CHECK IS VOID IF THE BLUE COLORED BACKGROUND IS ABSENT

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

APPLICATION FOR SALE, ASSIGNMENT OR TRANSFER
OF CERTIFICATE OR FACILITIES

(Pursuant to Section 367.071, Florida Statutes)

To: Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

The undersigned hereby make application for the sale, assignment or transfer of all of Water Certificate No. 394W and/or Wastewater Certificate No. 335S or facilities in Martin County, Florida and submits the following information:

Part I APPLICANT INFORMATION

A) Sailfish Point Utility Corporation *
Name of utility

(561) 225-1615 (561) 225-1631
Phone No. Fax No.

6929 S. E. South Marina Way
Office street address

Stuart Florida 34996
City State Zip Code

3300 P.G.A. Blvd., Ste 900, Palm Bch Gardens, FL 33410
Mailing address if different from street address

N/A
Internet address if applicable

PSC/WAW 7 (Rev. 8/95)

- * Sailfish Point Utility Corporation is a wholly owned subsidiary of the transferor, Sailfish Point, Inc. Please see Exhibit "Q", "Explanatory Notes Relating to the Transfer."

- B) The name, address and telephone number of the person to contact concerning this application:

Hal R. Bradford* (561) 622-7550
Name Phone

3300 P.G.A. Blvd., Suite 900
Street address

Palm Beach Gardens Florida 33410
City State Zip Code

- C) The full name (as it will appear on the certificate), address and telephone number of the buyer:

Sailfish Point Service Corporation**
Name of utility

(561) 225-1000 (561) 225-1504
Phone No. Fax No.

2201 S. E. Sailfish Point Blvd.
Office street address

Stuart Florida 34996
City State Zip Code

Same as above
Mailing address if different from street address

N/A
Internet address if applicable

- D) Indicate the organizational character of the buyer: (circle one)

Corporation Partnership Sole Proprietorship

Other: _____
(Specify)

* Notices, pleadings, etc. should also be sent to the attorney for the applicant, Mr. Ben E. Girtman, Esq., 1020 East Lafayette Street, Suite 207, Tallahassee, Florida 32301-4552 and attorney for the transferee, B. Kenneth Gatlin, Esq., 1709 D Mahan Drive, Tallahassee, FL 32308.

** Sailfish Point Service Corporation is a wholly owned subsidiary of the Sailfish Point Property Owners and Country Club Association, Inc. Both are Florida corporations not for profit. When reference is made herein to transfer of the Utility to the Sailfish Point Property Owners and Country Club Association (the POA), such reference should be construed as transferring the Utility to the POA's subsidiary, Sailfish Point Service Corporation. No certificate will be required because it will be exempt from the Commission's jurisdiction pursuant to Section 367.022(7), Florida Statutes.

- E) The date and state of incorporation or organization of the buyer:

Sailfish Point Service Corporation was incorporated on _____, in the State of Florida, and is a not for profit subsidiary of the Sailfish Point Property Owners and Country Club Association, Inc., which was incorporated February 1, 1980 in the state of Florida.

- F) If the buyer is a corporation, list the names, titles, and addresses of corporate officers and directors. (Use additional sheet if necessary). The Corporate Officers and Directors for Sailfish Point Service Corporation are not available at this time, and will be provided _____ as a late filed exhibit. The names, titles and addresses of the corporate officers and directors of the Sailfish Point Property Owners and Country Club Association, Inc. are listed on Exhibit "R", and will also constitute the officers and directors of Sailfish Point Service Corporation.
- G) If the buyer is not a corporation, list the names, titles, and addresses of all persons owning an interest in the organization. (Use additional sheet if necessary).

N/A

PART II FINANCIAL AND TECHNICAL INFORMATION *

- A) Exhibit A - A statement indicating how the transfer is in the public interest, including a summary of the buyer's experience in water and/or wastewater utility operations, a showing of the buyer's financial ability to provide service and a statement that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters.
- B) List the names and locations of other water and/or wastewater utilities owned by the buyer and PSC certificate numbers, if any.

None
- C) Exhibit B ** - A copy of the contract for sale and all auxiliary or supplemental agreements, which shall include, if applicable:
- (1) Purchase price and terms of payment.
 - (2) A list of and the dollar amount of the assets purchased and liabilities assumed or not assumed, including those of nonregulated operations or entities.

* All Exhibits are numbered consecutively at the bottom of the page, as pages 1 through, 134 inclusive.

** See also Exhibit "Q", Enclosure (1), at Exhibit pages 106 through 108.

- (3) A description of all consideration between the parties, or example, promised salaries, retainer fees, stock, stock options, assumption of obligations.

The contract for sale shall also provide for the disposition, where applicable, of the following:

- (a) Customer deposits and interest thereon;
- (b) Any guaranteed revenue contracts;
- (c) Developer agreements;
- (d) Customer advances;
- (e) Debt of the utility; and
- (f) Leases

- D) Exhibit C - A statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed.
- E) Exhibit D - A statement describing the financing of the purchase.
- F) Exhibit E - A list of all entities upon which the applicant is relying to provide funding to the buyer, and an explanation of the manner and amount of such funding, which shall include their financial statements and copies of any financial agreements with the utility. This requirement shall not apply to any person or entity holding less than 10 percent ownership interest in the utility.
- G) Exhibit F - The proposed net book value of the system as of the date of the proposed transfer. If rate base (or net book value) has been established previously by this Commission, state the Order No. and date issued. Order No: 25092, Issued: 9-23-91. Identify all adjustments made to update this rate base (or net book value) to the date of the proposed transfer. See also Order No. 25092-A, issued 10-1-91.
- H) Exhibit G - A statement setting forth the reasons for the inclusion of an acquisition adjustment, if one is requested. (An acquisition adjustment results when the purchase price of the utility differs from the original cost calculation).
- I) The full name, address and telephone number of the person who has possession of the books and records of the seller:

Lois S. Taylor (561) 622-7550
Name **Phone No.**

3300 PGA Boulevard, Suite 900
Street Address

Palm Beach Gardens FL 33410
City **State** **Zip Code**

- J) Exhibit H - If the books and records of the seller are not available for inspection by the Commission or are not adequate for purposes of establishing the net book value of the system, a statement by the buyer that a good faith, extensive effort has been made to obtain such books and records for inspection by the Commission and detailing the steps taken to obtain the books and records.
- K) Exhibit I - A statement from the buyer that it has obtained or will obtain copies of all of the federal income tax returns of the seller from the date the utility was first established, or rate base was last established by the Commission or, if the tax returns have not been obtained, a statement from the buyer detailing the steps taken to obtain the returns.
- L) Exhibit J - A statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by the Department of Environmental Protection (DEP).

If the system is in need of repair or improvement, has any outstanding Notice of Violation of any standard set by the DEP or any outstanding consent orders with the DEP, the buyer shall provide a list of the improvements and repairs needed and the approximate cost to make them, a list of the action taken by the utility with regard to the violation, a copy of the Notice of Violation(s), a copy of the consent order and a list of the improvements and repairs consented to and the approximate cost to make them.

PART III NOTICE OF ACTUAL APPLICATION

- A) Exhibit K - An affidavit that the notice of actual application was given in accordance with Section 367.045(1)(a), Florida Statutes, and Rule 25-30.030, Florida Administrative Code, by regular mail to the following:
- (1) the governing body of the municipality, county, or counties in which the system or the territory proposed to be served is located;
 - (2) the privately owned water and wastewater utilities that hold a certificate granted by the Public Service Commission and that are located within the county in which the utility or the territory proposed to be served is located;
 - (3) if any portion of the proposed territory is within one mile of a county boundary, the utility shall notice the privately owned utilities located in the bordering counties and holding a certificate granted by the Commission;

- (4) the regional planning council;
- (5) the Office of Public Counsel;
- (6) the Public Service Commission's Director of Records and Reporting;
- (7) the appropriate regional office of the Department of Environmental Protection; and
- (8) the appropriate water management district.

Copies of the Notice and a list of entities noticed shall accompany the affidavit. THIS MAY BE A LATE-FILED EXHIBIT.

- B) Exhibit L - An affidavit that the notice of actual application was given in accordance with Rule 25-30.030, Florida Administrative Code, by regular mail or personal delivery to each customer of the system being transferred. A copy of the Notice shall accompany the affidavit. THIS MAYBE A LATE-FILED EXHIBIT.
- C) Exhibit M - Immediately upon completion of publication, an affidavit that the notice of actual application was published once in a newspaper of general circulation in the territory in accordance with Rule 25-30.030, Florida Administrative Code. A copy of the proof of publication shall accompany the affidavit. THIS MAY BE A LATE-FILED EXHIBIT.

PART IV FILING FEE

Indicate the filing fee enclosed with the application:

 \$1,500.00 (for water) and \$1,500.00

(for wastewater).

Note: Pursuant to Rule 25-30.020, Florida Administrative Code, the amount of the filing fee is as follows:

- (1) For applications in which the utility to be transferred has the capacity to service up to 500 ERCs, the filing fee shall be \$750.
- (2) For applications in which the utility to be transferred has the capacity to serve from 501 to 2,000 ERCs the filing fee shall be \$1,500.
- (3) For applications in which the utility to be transferred has the capacity to serve from 2,001 ERCs to 4,000 ERCs the filing fee shall be \$2,250.

- (4) For applications in which the utility to be transferred has the capacity to serve more than 4,000 ERCs the filing fee shall be \$3,000.

PART V OTHER

- A) Exhibit S - Evidence that the utility owns the land where the utility treatment facilities are located. Or, where the utility does not own the land, a copy of the agreement which provides for the long term, continuous use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative. **This will be a late filed exhibit. Please also see Exhibit "Q", "Explanatory Notes Relating to the Transfer".**
- B) Exhibit O - The original and two copies of sample tariff sheets reflecting the new name of the utility, the existing rates and charges and territorial description of the water and/or wastewater systems.
- C) Exhibit P - The utility's current certificate(s) or, if not available, an explanation of the steps the applicant took to obtain the certificate(s).

PART VI AFFIDAVIT

I Norman D. Peel, Vice President, Sailfish Point, Inc. (applicant) do solemnly swear or affirm that the facts stated in the foregoing application and all exhibits attached thereto are true and correct and that said statements of fact thereto constitute a complete statement of the matter to which it relates.


BY:

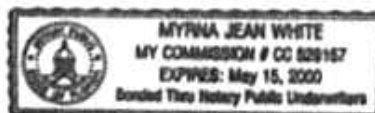

Applicant's Signature

Norman D. Peel
Applicant's Name (Typed)

Vice President
Applicant's Title

Subscribed and sworn to before me this 13th of January 1997.


Notary Public



- If the applicant is a corporation, the affidavit must be made by the president or other officer authorized by the by-laws of the corporation to act for it. If the applicant is a partnership or association, a member of the organization authorized to make such affidavit shall execute same.

SAILFISH POINT TRANSFER APPLICATION

E X H I B I T S

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* All Exhibits are numbered consecutively at the bottom of the page, as pages 1 through 134, inclusive.

FINANCIAL AND TECHNICAL INFORMATION
STATEMENT SUPPORTING TRANSFER BEING IN THE PUBLIC INTEREST

The Sailfish Point Utility provides water and wastewater services to Sailfish Point, an exclusive residential community on Hutchinson Island in Stuart, Florida. The facilities of the utility will be transferred to the Sailfish Point Property Owners and Country Club Association, Inc. (POA), a not for profit entity whose membership is comprised of the owners of Sailfish Point property.

Although the POA has no previous experience operating a water or wastewater facility, we foresee positive effects to the residents of Sailfish Point as a result of the sale. The POA intends to retain the personnel currently employed by Sailfish Point Utility Corporation, two of whom each have fifteen years experience operating the facility. The POA will be exempt from regulation by the Public Service Commission pursuant to section 367.022(7), Florida Statutes and expects to be able to provide water and wastewater services to the residents of Sailfish Point at less cost than the current regulated utility.

Sailfish Point Utility Corporation has previously expanded the capacities of the water and wastewater treatment facilities to adequately service Sailfish Point at buildout. The Association is financially stable and will be able to adequately serve the residents of Sailfish Point.

Exhibit 1 to Exhibit A to Settlement Agreement
Case No. 94-489 CA
Martin County Circuit Court
STOCK PURCHASE AGREEMENT
Re:
SAILFISH POINT UTILITY CORPORATION

THIS STOCK PURCHASE AGREEMENT is made and entered into by and among SAILFISH POINT PROPERTY OWNERS AND COUNTRY CLUB ASSOCIATION, INC., a Florida not-for-profit corporation. ("Purchaser"); and SAILFISH POINT, INC., a Delaware corporation. ("Seller").

W I T N E S S E T H:

WHEREAS, Seller owns all of the issued and outstanding capital stock (the "Shares") of SAILFISH POINT UTILITY CORPORATION, a Delaware corporation ("SPUC"); and

WHEREAS, SPUC owns and operates the water and wastewater treatment facilities serving Sailfish Point PUD, Martin County, Florida; and

WHEREAS, as one of several inducements to Purchaser to enter into the settlement of the Class Action and the Derivative Action pending against Seller and others ("Sailfish Point Litigation"), Seller has agreed to transfer and convey the Shares of SPUC to Purchaser upon the terms and conditions set forth in the Transaction Documents.

NOW, THEREFORE, in consideration of the premises, the mutual representations, warranties, conditions, and covenants herein contained and in the Settlement Agreement to which this Stock Purchase Agreement is attached, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1.
DEFINITIONS

1.1 Definition of Certain Terms. The terms defined in this Section 1.1, whenever used in this Stock Purchase Agreement (including the Exhibits and Schedules) shall have the respective meanings indicated below for all purposes of this Stock Purchase Agreement. All references herein to a Section, Article, Exhibit, or Schedule are to a Section, Article, Exhibit, or Schedule of or to this Stock Purchase Agreement, unless otherwise indicated.

(a) Affiliate: Of a Person means a Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the first Person. "Control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the

SPUC STOCK PURCHASE AGREEMENT

management policies of a Person, whether through the ownership of voting securities, by contract or credit arrangement, as trustee or executor, or otherwise.

(b) Stock Purchase Agreement: This Stock Purchase Agreement, including the Schedules and Exhibits hereto.

(c) Applicable Laws: All applicable provisions of all (i) constitutions, treaties, statutes, laws (including the common law), rules, regulations, ordinances, codes, or orders of Governmental Authority; (ii) Governmental Approvals; and (iii) orders, decisions, injunctions, judgments, awards, and decrees of or agreements with any Governmental Authority.

(d) Assets: All of the assets, tangible and intangible, owned, possessed, or held by SPUC, wherever located, including fully-depreciated assets.

(e) Business: Water and wastewater treatment and disposal for Sailfish Point PUD.

(f) Closing: The deliveries contemplated by Articles 7. and 8. of this Stock Purchase Agreement shall be made on the Closing Date at the Clubhouse at Sailfish Point at 10:00 a.m., local time. Such deliveries shall constitute the "Closing." The Closing shall not occur unless and until all of such deliveries are made (or appropriately waived), and none of such actions shall be deemed to have been taken unless and until all of them have been taken (or the requirement that they be taken appropriately waived).

(g) Closing Date: The Date to be agreed on which the Closing shall occur, not to exceed ten business days after the last to occur of the following events: (i) written order of PSC approving the transfer has become final and not subject to appeal; (ii) Court approval of the Settlement Agreement; (iii) expiration of inspection period provided in Paragraph 10.1 or, (iv) deficiencies identified have been waived or cured.

(h) Code: The Internal Revenue Code of 1986, as amended.

(i) Effective Date: This Stock Purchase Agreement shall become effective upon the date executed by the last of the parties to execute it.

(j) Employees: The employees of SPUC as set forth on Exhibit 3.20 (including any former employee or dependent of any employee or former employee who may have any rights to any benefits for which SPUC is obligated).

(k) Environmental Laws: All Applicable Laws relating to the protection of the environment, human health and safety, or to any emission, discharge, generation, processing, storage, holding, abatement, existence, release, threatened release, or transportation of any hazardous substances, including, without limitation, all requirements pertaining to reporting,

SPUC STOCK PURCHASE AGREEMENT

licensing, permitting, investigation, or remediation of emissions, discharges, releases, or threatened releases of hazardous substances into the air, surface water, ground water, or land, or relating to the generation, manufacture, processing, distribution, use, sale, treatment, receipt, storage, disposal, transport, or handling of hazardous substances, and all other requirements pertaining to the protection of the health and safety of employees or the public.

(l) Environmental Permits: Any federal, state, and local permit, license, registration, consent, order, administrative consent order, certificate, approval, or other authorization with respect to SPUC necessary for the conduct of the Business as currently conducted or previously conducted under any Environmental Law.

(m) Exemption: The exemption from Florida Public Service Commission regulation, pursuant to the non-profit association exemption provided in §367.022(7), Florida Statutes.

(n) Governmental Approval: Any Consent of, with, or to any Governmental Authority.

(o) Governmental Authority: Any entity exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to government, including, without limitation, any government authority, agency, department, board, commission, or instrumentality of the United States, any state of the United States, or any political subdivision thereof, and any tribunal or arbitrator(s) of competent jurisdiction, and any self-regulatory organization.

(p) Commission or PSC: The Florida Public Service Commission

(q) Person: Any natural person, firm, partnership, association, corporation, company, trust, business trust, Governmental Authority, or other entity.

(r) Real Property: All interests in real property owned or leased by SPUC as set forth in Exhibit 3.16.

(s) Sailfish Point Litigation: The Class Action and the Derivative Action as defined in the Agreement to which this Stock Purchase Agreement is attached as Exhibit 1.

(t) Transaction Documents: The documents and instruments executed in connection with this Stock Purchase Agreement.

ARTICLE 2. PURCHASE AND SALE OF SHARES

2.1 Transfer of Shares. Subject to the terms and conditions of this Stock Purchase Agreement, Seller shall convey, transfer, and assign the Shares to Purchaser, and Purchaser shall

SPUC STOCK PURCHASE AGREEMENT

acquire and purchase the Shares from Seller, on and as of the Closing Date. Seller has valid and marketable title to the Shares, free and clear of all liens, claims of ownership, pledges, security interests, restrictions on ownership, voting, transfer or receipt of dividends, or other encumbrances of any kind whatsoever (in any such case, a "Stock Encumbrance") and shall deliver such title to the Shares to Purchaser.

2.2 Purchase Price. The Purchase Price for the Shares shall be \$10.00 and other good and valuable consideration including the releases given by Purchaser with respect to the Sailfish Point Litigation and payment of the Hook-Up Fee Component to be paid as hereinafter provided.

2.3 Hook-Up Fee Component. The Hook-Up Fee Component is that amount of money which is equal to 58 percent of all hook-up fees potentially to be received by SPUC from Effective Date until all lots and units at Sailfish Point have been connected to the SPUC facilities ("Potential Hook-Up Fees").

2.4 Payment of Hook-up Fee Component. The Hook-Up Fee Component shall be paid solely from hook-up fees received by SPUC. Payments to Seller shall be made monthly after Closing. Prior to Closing, Seller shall continue to receive all hook-up fees. After Closing, until the hook-up fees have been increased as provided in paragraph 2.5 below, payments to Seller shall be made in the amount of \$3,600 for each lot for which hook-up fees have been received. Thereafter, payments to Seller shall be in the amount of \$4,500 for each lot for which hook-up fees have been received. Payments of the Hook-Up Fee Component shall terminate whenever the cumulative Hook-Up Fee Component payments equal 58 percent of the Potential Hook-Up Fees. Should cumulative Hook-Up Fee Component payments made to Seller through fourth anniversary of the Effective Date not equal 58 percent of Potential Hook-Up Fees, monthly Hook-Up Fee Component payments to Seller equal to 58 percent of hook-up fees thereafter received by SPUC shall continue to be made until Seller shall have received 58 percent of Potential Hook-Up Fees. Should cumulative Hook-Up Fee Component payments to Seller exceed 58 percent of Potential Hook-Up Fees, Seller shall promptly remit to SPUC such excess.

2.5 Hook-Up Fee Increase. Within ten business days after the written order of the Commission approving the Exemption has become final and not subject to appeal, or if exemption is not required ten business days after Closing, SPUC will increase its hook-up fees to \$3,000 for water and \$3,000 for wastewater for a total of \$6,000 per lot or unit.

2.6 Tax Election. Seller and Purchaser each agree to elect, pursuant to §338(h)(10) of the Code, to have this transaction be treated for Federal Income Tax purposes as a sale of assets. Purchaser and Seller shall agree on a reasonable allocation of the sale price in accordance with governing Treasury regulations.

SPUC STOCK PURCHASE AGREEMENT

ARTICLE 3.

REPRESENTATIONS AND WARRANTIES OF SELLER

In order to induce Purchaser to enter into this Stock Purchase Agreement and consummate the transactions contemplated hereunder, Seller represents and warrants to and for the benefit of Purchaser the following, each warranty and representation being deemed to be independently material and relied upon by Purchaser regardless of any investigation made or information obtained by Purchaser:

3.1 Organization and Qualification. SPUC is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware, with full corporate power and authority to carry on the Business and to own, lease, and operate its properties.

3.2 Authorization; No Conflict. The transfer of the Shares and the carrying out by Seller of the terms and provisions of this Stock Purchase Agreement (i) will not conflict with, or result in a breach, of the terms or provisions of the Articles of Incorporation, as amended, or Bylaws, as amended, of SPUC (true and complete copies of each of which are attached hereto as Exhibit 3.2); (ii) will not constitute a violation or breach of any order, injunction, decree, or other judicial prohibition or restriction against, affecting, or applicable to Seller, SPUC, or any of their respective properties; and (iii) will not conflict with, or constitute (with due notice or lapse of time, or both) a violation, default, or breach of the terms or provisions of any material contract, lease, note, or agreement.

3.3 Capitalization. The authorized capital stock of SPUC consists of 1,000 shares of Common Stock, \$1.00 par value, which Shares are the only issued and outstanding shares thereof. All of the Shares are duly and validly authorized, issued and outstanding and fully paid and nonassessable. There are no preemptive rights existing with respect to the capital stock of SPUC, and none of the Shares were issued in violation of any preemptive rights. There are no outstanding warrants, options, rights, calls, or other commitments of any nature relating to the capital stock of SPUC, and there are no outstanding securities or debt obligations of SPUC convertible into or exchangeable for shares of capital stock of SPUC. There are no agreements, commitments, restrictions, or arrangements relating to ownership (including, without limitation, repurchase or redemption), voting, or receipt of dividends or distributions in respect of any shares of SPUC's capital stock. SPUC has not declared or paid any dividend or made any other distribution in respect to SPUC's capital stock nor has it issued any other shares of its capital stock or any other security, directly or indirectly, nor redeemed, purchased, or otherwise acquired any shares of its own capital stock. Seller is the record and beneficial owner of the Shares, and all of the Shares are free and clear of all Stock Encumbrances. Upon the Closing of the sale of the Shares as contemplated herein, Seller shall transfer to Purchaser all right, title, and interest, both of record and beneficially, in and to the Shares, free and clear of all Stock Encumbrances.

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3.4 Subsidiaries and Partnerships. SPUC is not a shareholder in any other corporation; is not a partner in any partnership; and owns no ownership interest in any other entity.

3.5 Profit and Loss Statements. Attached hereto as Exhibit 3.5 are Profit and Loss Statements which fairly present in all material respects the revenues and expenses of SPUC as of their respective dates and the results of operations of SPUC for the periods then ended.

3.6 Absence of Undisclosed Liabilities. SPUC has no material debts, liabilities, or obligations of any nature, whether accrued, absolute, contingent, or otherwise, and whether due or to become due, arising out of transactions entered into, or any state of facts existing on or prior to the date of this Stock Purchase Agreement, other than (a) liabilities and obligations as disclosed or contemplated in this Stock Purchase Agreement, (b) liabilities and obligations set forth (specifically identified and quantified and acceptable to Purchaser) in the Exhibits hereto, (c) trade accounts arising in the ordinary course of business, (d) intercompany obligations reflected on balance sheet of Seller or Seller's reporting affiliate, and (e) as shown on Exhibit 3.6. As of the Closing, SPUC shall have no obligation of any kind to an SPUC Affiliate nor any direct or indirect obligation for borrowed funds, and the only obligations SPUC will have after Closing will be trade payables incurred in the ordinary course of business that are not overdue and as shown on Exhibit 3.6.

3.7 Title to Assets. SPUC has good and marketable title to its Assets free and clear of any and all mortgages, hypothecation claims (except actions being settled), lawsuits (except actions being settled), causes of action, liens, federal, state or local tax liens, charges, equities, covenants, conditions, reservations, restrictions, security interests, options, escrow, other agreements and any other encumbrances or matters of whatsoever nature. The Assets comprise all assets required for the continued conduct of the Business of SPUC as of the Closing. There are no facts or conditions known to Seller or SPUC affecting the Assets which could, individually or in the aggregate, interfere in any material respect with the use, occupancy, or operation thereof as currently used, occupied, or operated, or their adequacy for such use.

3.8 Licenses and Permits. The licenses and permits of SPUC are identified on Exhibit 3.8. There are no proceedings presently pending or threatened that may result in the revocation, cancellation, suspension or modification of any license or permit held by SPUC; SPUC is not in violation of any of the terms and conditions of any license or permit.

3.9 Tax Returns Filed. All applicable federal, state, county, local and foreign tax returns, information returns and reports which are required to be filed in connection with SPUC's Business and the Assets have been filed or will be filed by Seller or its reporting affiliate and SPUC has paid or has made adequate provision for the payment in full of all income, profits, franchise, sales, use, occupation, personal property, property, excise, value added, payroll, FICA, unemployment, accumulated earnings, withholding, unemployment and all other taxes, fees, governmental charges, duties, interest, penalties, assessments or deficiencies, if any, with respect

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to present and prior periods to the extent they have become due and payable. There are no liens in respect of Taxes encumbering any of the Assets or the leased properties.

3.10 Condition of Equipment. As of the date hereof, substantially all of the equipment, vehicles and all other operating and/or tangible Assets including Buildings constituting part of the Assets of SPUC are in operating condition, are free from known defects (other than for routine maintenance, repair and replacement parts).

3.11 Accounts Receivable. Except as set forth on Exhibit 3.11, the accounts receivable reflected on the books of SPUC on the date hereof are valid and existing and represent monies owed to SPUC for services provided and delivered in the ordinary course of business.

3.12 No Notification Affecting Business. As of the date hereof, neither SPUC nor Seller has received any written notice of any governmental regulation, order, or requirement restricting the operation of the Assets or the Business of SPUC in the manner in which the Assets are currently being operated in the Business, which would adversely affect the operation of the Business under any service agreement or other relationship with any customer except as set forth in Exhibit 3.12.

3.13 Insurance. No liability insurance is carried by SPUC which will enure to benefit of Purchaser. Attached hereto as Exhibit 3.13 is a schedule of all insurance contracts maintained by SPUC, which includes the name of each carrier, the general description of the coverage, and the amounts of coverage. Seller has delivered to Purchaser copies of each of the insurance contracts listed on Exhibit 3.13.

3.14 Absence of Material Changes. Except as disclosed on the Profit and Loss statement through the date hereof, there has not been, with respect to SPUC any material adverse change in the financial condition, liabilities, or Business of SPUC, taken as a whole.

3.15 Litigation and Claims. There are no unsatisfied judgments against SPUC or consent decrees, orders or injunctions to which SPUC is subject, and there is no litigation, proceeding or investigation or material claim pending to the knowledge of Seller or SPUC, other than the Sailfish Point Litigation.

3.16 Real Property. The real property listed on Exhibit 3.16 consists of all real property owned by SPUC. At Closing SPUC will have good and marketable fee title to such real property, free and clear of all mortgages, pledges, liens, restrictions, or encumbrances of any kind, except for (a) those easements, covenants and restrictions created by the recorded Declaration of Covenants and Restrictions for Sailfish Point and Amendments thereto; recorded Supplementary Declaration of Covenants and Restrictions and Amendments thereto; the recorded PUD Zoning Agreements and Amendments thereto and shown on recorded Plats of Sailfish Point PUD, (b) general utility easements which do not interfere with the use of the property, (c) current

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real or personal property taxes or other statutory liens covering amounts not yet due and payable, (d) liens imposed by operation of law, and (e) such imperfections of title and encumbrances as do not materially detract from the value or marketability of such property or otherwise materially impair the Business operations of SPUC, taken as a whole.

3.17 Fixed Assets. Exhibit 3.17 is a true and correct schedule of all items of machinery, equipment, vehicles, office furniture and fixtures, set forth on the schedule of fixed assets ("Fixed Assets") of SPUC.

3.18 Employee Benefit Plans. (a) Except as set forth on Exhibit 3.18, SPUC has no obligation to contribute to or provide benefits pursuant to, and is not liable for any contribution, tax, lien, penalty, cost, interest claim, loss, actions, suit, damage, cost assessment or other liability or expense of any kind with respect to, any "employee benefit plan" (as defined by Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")), or any other bonus, profit sharing, pension, compensation, deferred compensation, stock option, stock purchase, fringe benefit, severance, post-retirement, scholarship, disability, sick leave, vacation, individual employment, commission, bonus, payroll practice, retention or other binding plan, agreement, policy, trust fund or arrangement, whether for employees of SPUC (or their eligible dependents) ("SPUC Personnel") or otherwise.

3.19 Books and Records. As of the date hereof, the books and records of SPUC adequately reflect the operations of the Business. There are no material transactions known to Seller involving SPUC's business which properly should have been set forth therein and which have not been actually so set forth.

3.20 Employees: Compensation. Exhibit 3.20 is a list of the current Employees and their job titles. A schedule of the compensation including bonus arrangements or commitments currently being paid to all Employees has been furnished to Purchaser.

3.21 Union and Employment Matters. SPUC is not a party or subject to any labor union or collective bargaining agreements or contracts. To the knowledge of Seller and SPUC, (i) no union attempts to organize any or all of the employees of SPUC are being made, (ii) there is no labor strike, material slowdown or material work stoppage or lockout pending against SPUC, and (iii) there are no unfair labor practice complaints pending against SPUC before the National Labor Relations Board or any other Government.

3.22 Bank Accounts. SPUC presently has no bank accounts.

3.23 Powers of Attorney. SPUC has not given any power of attorney, whether limited or general, to any person, firm, corporation or otherwise that is continuing in effect.

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3.24 Brokers and Finders. Neither Seller, nor SPUC, nor any officer or director thereof, has employed any broker or finder or incurred any liability for any brokerage fees, commissions or finder's fees in connection with the transactions contemplated herein.

3.25 Environmental Matters - Non-Compliance. There are no known non-compliances by SPUC of any applicable Environmental Laws pertaining to any of the properties and Assets of the Business (including, without limitation, the Real Property) and the use and ownership thereof, and to the operation of the Business.

3.26 No Consents. Other than from the Florida Public Service Commission, Seller has no knowledge of any authorization, consent, approval or license of any person or entity which is or will be required in connection with Seller's execution of this Stock Purchase Agreement or the Transaction Documents, other than as set out in Exhibit 3.26.

ARTICLE 4. COVENANTS OF SELLER

Seller hereby covenants and agrees with Purchaser as follows:

4.1 Changes in Articles of Incorporation or Bylaws. Between the Effective Date of this Stock Purchase Agreement and the Closing Date, there will be no change in the Articles of Incorporation or Bylaws of SPUC except as to changes in Officers and Directors, and SPUC will maintain its corporate existence and powers.

4.2 Issuance or Purchase of Securities. Between the date of this Stock Purchase Agreement and the Closing Date, SPUC will not (i) issue any additional capital stock or other security, (ii) declare, set aside or pay any dividend or make any other distribution in respect to its capital stock, (iii) directly or indirectly redeem, purchase or otherwise acquire any shares of its capital stock, (iv) issue to any person or other entity options, warrants or other rights to acquire any securities of SPUC, or (v) enter into any shareholders' agreement or similar agreement with one or more shareholders of SPUC.

4.3 Conduct of Business. Except with the prior written approval of Purchaser or as expressly set forth in Exhibit 4.3 hereto, prior to the Closing Date:

(a) The Business will be conducted in substantially the same manner as presently being conducted, and SPUC will not enter into any material transactions or contracts other than in the ordinary course of business or in connection with the transactions contemplated herein, will not make any material change in its methods of management, distribution, marketing, accounting or operations, and will take no action that will cause a breach of any of the warranties, representations, and covenants of Seller set forth in this Stock Purchase Agreement;

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(b) (i) No new employment agreement, or severance, consulting or retention agreement, will be entered into by SPUC, and (ii) no commitments to the employees as a group (including any commitment to pay retirement or other benefits) will be entered into by SPUC.

(c) No increase will be made in the salaries paid nor any change made in the plan or manner by which compensation (including fringe, retirement, pension plan or savings plan benefits) is determined with respect to any officers, directors or employees of SPUC, other than in the ordinary course of business consistent with past practices or as contemplated herein:

(d) SPUC will not (i) assume, create, incur or guarantee any indebtedness for borrowed money except in the ordinary course of business or as contemplated by this Stock Purchase Agreement, (ii) enter into as lessor or lessee, any material lease or sublease with respect to real property or personal property, (iii) enter into or terminate, as lessor or lessee, any lease or sublease with respect to real or personal property other than in the ordinary course of business, (iv) create any subsidiary, or (v) release or create any liens or other security interests, except in the ordinary course of business;

(e) SPUC will not sell, encumber, or otherwise convey any material asset or make any commitment to sell any such asset;

(f) SPUC will not (i) merge or consolidate with any other corporation, or (ii) acquire any or all of the stock of or all or substantially all of the assets of any other person, firm, association, corporation or other business organization;

(g) SPUC will not loan or advance monies from SPUC to any person; and

(h) SPUC will not cancel, without payment in full, any notes, loans or material receivables from any employee, officer or director of SPUC, or any member of their families, or from any corporation, partnership or other entity in which any officer or director of SPUC, or any member of their families, has any direct or indirect interest as an officer, director or owner of a five percent (5%) or more equity interest.

4.4 Maintenance of Properties. SPUC shall, at all times prior to the Closing Date, maintain its material properties and assets in their present condition, reasonable wear and use excepted, and shall maintain its books, accounts and records in the usual, regular and ordinary manner on a basis in all material respects consistent with prior years.

4.5 Relationships with Employees and Customers. At all times prior to the Closing Date, SPUC shall (i) preserve its business organization intact, (ii) use its best efforts to keep available to SPUC, its key officers, employees and agents, (iii) use reasonable efforts to preserve the present relationship of SPUC with its suppliers and customers and others having business

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relationships with it, and (iv) consult with Purchaser prior to bidding for or entering into any new contract with a contract value in excess of Twenty-Five Thousand and 00/100 Dollars (\$25,000).

4.6 Access. At all times prior to the Closing Date, SPUC will allow Purchaser's employees, attorneys, accountants, agents and other authorized and designated representatives reasonable access to the properties, books and records of SPUC, including without limitation, deeds, title documents, leases, insurance policies, minute books, shareholder lists, accounts, financial statements and all other data which are reasonably requested by Purchaser; provided, however, that any such investigations shall be conducted in such manner as not to interfere unreasonably with the operation of the Business.

4.7 Cooperation with Purchaser. Seller and SPUC shall cooperate and cause SPUC's officer, employees, agents, and representatives to cooperate with Purchaser and shall use their respective best efforts to consummate the transactions contemplated hereby.

4.8 Further Assurances. Upon the request of Purchaser at any time after the Closing Date, Seller shall forthwith execute and deliver such further instruments of assignment, transfer, conveyance, endorsement, direction or authorization and other documents as Purchaser or its counsel may reasonably request to perfect title of Purchaser and its successors and assigns to the Shares or otherwise to effectuate the purposes of this Stock Purchase Agreement.

ARTICLE 5.

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to and for the benefit of Seller, each of which representations and warranties being deemed to be independently material and relied upon by Seller, regardless of any investigation made or information obtained, as follows:

5.1 Organization of Purchaser. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida with power and authority to carry on the activities in which it is engaged, to execute and deliver this Stock Purchase Agreement, and any other documents contemplated by this Stock Purchase Agreement, and to perform its obligations under this Stock Purchase Agreement.

5.2 Authorization of Agreement. The execution and delivery of this Stock Purchase Agreement have been duly authorized and approved by the Board of Directors of Purchaser. This Stock Purchase Agreement and the performance by Purchaser of the terms and provisions of this Stock Purchase Agreement: (i) will not conflict with, or result in a breach of the terms or provisions of, the Certificate of Incorporation or Bylaws of Purchaser; (ii) will not constitute a violation or breach of any order, injunction, decree or other judicial or regulatory prohibition or restriction against or affecting Purchaser; and (iii) will not conflict with, or constitute a violation,

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default or breach of, the terms or provisions of any material contracts, leases, notes, agreements or any other obligation of Purchaser.

5.3 Approvals. No exemption, consent, approval, order or authorization of, or registration, declaration or filing with any court, agency or commission or other Government authority or instrumentality is required by or with respect to Purchaser in connection with the execution and delivery of this Stock Purchase Agreement by Purchaser or the consummation by Purchaser of the transactions contemplated hereby except approval of the Court in the Sailfish Point Litigation Class Action Settlement Agreement of which this Stock Purchase Agreement is a part.

5.4 Brokers and Finders. No agent, broker, finder, investment banker, person or firm is or will be entitled to any broker's or finder's fee or any other compensation or commission or similar fee directly or indirectly in connection with the transactions contemplated by this Stock Purchase Agreement based on arrangements made by or on behalf of Purchaser.

5.5 No Violation. Purchaser is not subject to or obligated under any certificate of incorporation, bylaw, law, or rule or regulation of any governmental authority, or any agreement or instrument, or any license, franchise or permit, or subject to any order, writ, injunction or decree which would be in any material respect breached or violated by the execution, delivery or performance of this Stock Purchase Agreement other than as respects the Sailfish Point Litigation Settlement Agreement approval.

ARTICLE 6. COVENANTS OF PURCHASER

Purchaser hereby covenants and agrees with Seller as follows:

6.1 Cooperation with Seller. Purchaser shall cooperate with Seller and shall use its best efforts to fulfill or obtain the fulfillment of this Stock Purchase Agreement prior to the Closing Date.

6.2 Further Assurances. Upon the request of Seller at any time after the Closing Date, Purchaser shall forthwith execute and deliver such documents as Seller or their counsel may reasonably request to effectuate the purposes of this Stock Purchase Agreement.

6.3 Contributions-in-Aid-of-Construction (CIAC). Purchaser acknowledges that the utility holds CIAC. Purchaser has made such independent analysis and review of the subject, and has consulted with such individuals, documents and agencies as to fully satisfy itself of the existence of, amount of and effect of such CIAC on the utility and on this transaction. By acquiring the Utility's common stock, Purchaser will acquire all of the Assets of the Utility, as

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set forth elsewhere in this Agreement, and after Closing, Seller shall have no obligation to Purchaser in regard to those Assets, including CIAC.

6.4 Retention and Inspection of Records. After the Closing, Purchaser shall provide Seller with access to all records relating to the operations of SPUC prior to the Closing. In the event that SPUC chooses to dispose of records existing at the Closing Date, SPUC shall first offer such records to Seller.

6.5 Seller's Audit Rights. Seller, at its expense, shall have the rights to audit the books and records of SPUC for all purposes from the Closing until six months after Seller is no longer entitled to payments of the Purchase Price as provided in paragraph 2.2.

ARTICLE 7. CONDITIONS TO OBLIGATIONS OF SELLER

The obligations of Seller under this Stock Purchase Agreement shall be subject to and conditioned upon the following:

7.1 Accuracy of Representations. Each of the representations and warranties of Seller shall be true and correct on the date hereof and shall be true and correct on and as of the Closing Date; and Seller shall have executed and delivered to Purchaser at the Closing certificates to such effect dated the Closing Date in the form attached hereto as Exhibit 7.1.

7.2 Performance. Each of the agreements, covenants, stipulations, terms and conditions hereof to be performed and complied with by Seller on or prior to the Closing Date shall have been performed and complied with on or prior thereto.

ARTICLE 8. CONDITIONS TO OBLIGATIONS OF PURCHASER

The obligations of Purchaser under this Stock Purchase Agreement shall be subject to and conditioned upon the following:

8.1 Accuracy of Representations. Each of the representations and warranties of Purchaser shall be true and correct on the date hereof and shall be true and correct on and as of the Closing Date; and Purchaser shall have executed and delivered to Seller on the Closing Date a certificate to such effect dated the Closing Date in the form attached hereto as Exhibit 8.1.

8.2 Performance. Each of the agreements, covenants, stipulations, terms and conditions hereof to be performed and complied with by Purchaser on or prior to the Closing Date shall have been performed and complied with on or prior thereto.

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ARTICLE 9.

TRANSFER TAXES, PRORATIONS, AND COSTS & EXPENSES

9.1 Transfer Taxes. Seller and Purchaser shall each pay one-half of all transfer taxes, documentary, or similar taxes or fees, personal property taxes, recording fees, and other similar fees incurred as a result of the sale and transfer of the Shares at the Purchase Price, stated in paragraph 2.2 ("Transfer Taxes").

9.2 Sales and Use Tax. Seller and Purchaser shall be responsible for and shall pay one-half of all applicable sales and use taxes (if any) pertaining to the transfer of the Shares pursuant to this Stock Purchase Agreement.

9.3 Income and Other Taxes. Any income or other taxes, if any, imposed upon Seller as a result of the transactions contemplated by this Stock Purchase Agreement shall be paid by Seller. Any income or other taxes which may be imposed on SPUC resulting from intercompany transactions prior to Closing between SPUC, Seller or Seller's affiliates to effect the transactions contemplated by this Stock Purchase Agreement, shall be paid by Seller or Seller's reporting affiliate.

9.4 Costs and Expenses. No fees and expenses incurred by Seller or SPUC prior to Closing in connection with this transaction, including their counsel and accountants shall be transferred to SPUC after Closing.

9.5 Survey. Purchaser shall pay the cost of any fees and expenses required for a survey of the Real Property prior to the Closing Date, if desired.

9.6 Accounts Receivable and Payable. Accounts receivable and payments received after Closing for services rendered prior to the Closing Date shall be determined by SPUC by proration based upon the number of days prior to Closing compared with the total period for which the payment was made. Expenses incurred prior to Closing but paid or payable after Closing shall also be prorated on the same basis. The value of supplies and other consumables available for use after Closing, but which were purchased prior to Closing, shall be determined based upon their cost. Seller shall be credited with the income attributable to services performed prior to Closing and the value of supplies and consumables on hand after Closing. Purchaser shall be credited with the expenses paid or payable after Closing attributable to services performed prior to Closing. Within sixty days of Closing, Seller shall pay to SPUC the amount by which Purchaser's credits exceed Seller's credits or SPUC shall pay to Seller the amount by which Seller's credits exceed Purchaser's credits.

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ARTICLE 10.

INSPECTION, TERMINATION

10.1 Termination. This Stock Purchase Agreement may be terminated at any time prior to the Closing by the mutual written consent of Seller and Purchaser. This Stock Purchase Agreement will terminate if the Settlement Agreement of the Sailfish Point Litigation Class Action is not approved by the Court and either party notifies the other in writing that it does not desire to undertake further efforts to obtain approval by the Court.

10.2 Inspection Period. Purchaser shall have sixty days after the Effective Date (the "Inspection Period") to conduct such investigations of the Business, Real Property and environmental and other permits, including by way of illustration and not in limitation, inspections as to the physical condition of the buildings, facilities and equipment located on the Utility Parcel, conduct an environmental audit of the Real Property, investigate the status, expiration, non-compliances and transferability of any permit, license or approval necessary for the operation of the Business or of the Assets and any other condition or characteristic which Purchaser may deem necessary or relevant before Purchaser closes on and assumes responsibility for operation of the Business. Should Purchaser become dissatisfied or concerned with the result of any such inspection, search, inquiry or report as contemplated herein, then Purchaser may, prior to the expiration of the Inspection Period notify Seller in writing of Purchaser's objections.

10.3 Seller's Cure. If within thirty days after receipt of Purchaser's written notice of objection, Seller has corrected, cured or alleviated each objection to Purchaser's reasonable satisfaction, Purchaser shall be obligated to accept transfer of the stock and the parties shall otherwise perform in accordance with this Agreement. Otherwise, within ten days after expiration of such thirty-day period, Purchaser will notify Seller in writing whether it elects to: (i) accept transfer of the stock with the business in its "as is" condition or, (ii) terminate this Agreement.

10.4 Purchaser's Termination After Inspection. In the event Purchaser elects to terminate this Stock Purchase Agreement pursuant to paragraph 10.2, Purchaser hereby agrees that all other aspects of the Settlement Agreement and Exhibit A thereto shall not be affected. Also in such event, Purchaser agrees to waive its right of first refusal pursuant to Article X, Section 4 of the Declaration as to any conveyance of the Utility Parcel by Seller of SPUC but not to subsequent conveyances from the grantee of Seller or SPUC.

ARTICLE 11.

PUBLIC SERVICE COMMISSION APPROVAL

11.1 Agreement Subject to Approval. This Stock Purchase Agreement and the transfer contemplated herein are expressly subject to approval by the Florida Public Service Commission. Seller and Purchaser are aware that the Commission must first approve any transfer of the utility, its certificate, its stock or its assets and that Purchaser may file with the Commission an

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application for exemption pursuant to §367.022(7), Florida Statutes. Neither Seller nor Purchaser make any representations or warranties as to approval by the Commission of any application, petition, or other request of any kind filed by or on behalf of Seller, Purchaser, and/or SPUC.

11.2 Non-approval of Transfer. In the event the application for transfer is not approved by the Commission under substantially the same terms as set forth in this Stock Purchase Agreement and in the application for transfer, the parties agree to consider the objections of the Commission and to use their best efforts, in good faith, to resolve those objections. The transfer of SPUC is an integral part of the Settlement Agreement and the transfer is an inducement and consideration by each of the parties for the other to take the actions contemplated in this Stock Purchase Agreement and the Settlement Agreement. Therefore, Seller is obligated to convey to Purchaser and Purchaser is obligated to receive from Seller the utility system as more fully described in this Stock Purchase Agreement and the Settlement Agreement. The Purchaser and Seller agree to work together in good faith to accomplish the transfer without any additional consideration. Each party shall bear their own costs and attorney's fees.

11.3 Obligations after Transfer. After transfer of SPUC, Seller shall have no obligations for continued operation of SPUC, nor shall it have any continuing contingent or potential obligation to Purchaser in regard to the Utility, its operation, certification, financing or in any way other than as expressly set forth in this Agreement and the Settlement Agreement to which it is attached as an exhibit. Upon transfer of the Utility, Purchaser shall be obligated to use the cash flow described in this Stock Purchase Agreement to pay the amounts then due and owing to Seller.

ARTICLE 12. INDEMNIFICATION

12.1 Purchaser. Purchaser shall hold Seller harmless of and from any and all claims made with regard to any occurrence, the happening of which occurs after the transfer of SPUC to Purchaser in connection with the operation of the business of SPUC or the ownership, use, maintenance or control by SPUC of any of its assets or facilities.

12.2 Seller. Seller shall hold Purchaser harmless of and from any and all claims made with regard to any occurrence, the happening of which occurs before the transfer of SPUC to Purchaser, in connection with the operation of the business of SPUC or the ownership, use, maintenance or control by SPUC of any of its assets or facilities.

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ARTICLE 13. GENERAL

13.1 Capitalized Terms. The capitalized terms used herein shall have the meanings ascribed to them in this Stock Purchase Agreement, or in some cases, in the Exhibits attached hereto.

13.2 Notices. Any notice or other communication required or which may be given hereunder shall be in writing and shall be delivered personally, telegraphed, teletyped or telexed, or sent by certified, registered, or express mail, postage prepaid, and shall be deemed given when so delivered personally, telegraphed, teletyped or telexed, or if mailed, three (3) days after the date of mailing, as follows:

(i) If to Purchaser, to: Sailfish Point Property Owners and Country Club Association, Inc.
Attention: General Manager
2201 S.E. Sailfish Point Boulevard
Stuart, Florida 34996

with a copy to:

Wm. Reeves King, Esq.
St. John, King & Dicker
500 Clearlake, Suite 600
500 Australian Avenue So.
West Palm Beach, Florida 33401

(ii) If to Seller, to:

Sailfish Point, Inc.
Mobil Land Development Corporation
Attention: Hal R. Bradford, Esq.
3300 PGA Boulevard
Suite 900
Palm Beach Gardens, Florida 33410

with a copy to:

Paul E. Sklansky
Mobil Corp.
3225 Gallows Road
Room 8B 310
Fairfax, Virginia 22037

Any party may change the person and addresses to which notice or other communications are to be sent to it by giving written notice of any such change in the manner provided herein for giving notice.

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13.3 Entire Agreement. This Stock Purchase Agreement (including the Exhibits attached hereto) and the Agreement to which it is attached as Exhibit 1, contain the entire agreement among the parties with respect to the subject matter hereof and supersede all prior agreements, negotiations, understandings and discussions, written or oral with respect hereto, and, other than as stated in this Stock Purchase Agreement, and the Agreement to which it is attached as Exhibit 1, there are no representations or warranties and no other stipulations, covenants or agreements by or among the parties hereto concerning the subject matter of this Stock Purchase Agreement.

13.4 Waivers and Amendments. This Stock Purchase Agreement may be amended, modified, superseded, cancelled, renewed or extended, and the terms and conditions hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. No waiver of any of the provisions of this Stock Purchase Agreement shall be deemed a waiver of any other provisions, whether or not similar, or of any subsequent breach of this Stock Purchase Agreement. No delay on the part of any party in exercising any right, power or privilege hereunder, nor any single or partial exercise of any right, power or privilege hereunder, preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

13.5 Headings. The subject headings of the sections of this Stock Purchase Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

13.6 Assignment. This Stock Purchase Agreement shall be binding upon and inure to the benefit of the successors, assigns, and legal representatives of the parties hereto.

13.7 Governing Law. This Stock Purchase Agreement shall be interpreted and construed in accordance with the Laws of the State of Florida.

13.8 Disclosures. Any document or other information furnished by Seller shall be deemed to have been delivered as part of the Exhibit attached hereto in which such document or information is disclosed by Seller.

13.9 Execution in Counterparts. This Stock Purchase Agreement may be executed in one or more counterparts, each of which shall constitute an original hereof, but all of which shall constitute but one and the same document.

13.10 Definitions of "Knowledge" and "Notice".

(a) For purposes of this Stock Purchase Agreement, the "knowledge" or "notice" of Purchaser shall mean the knowledge of any officer of Purchaser holding a title at least equivalent to vice president of Purchaser and, with respect to the Seller, shall mean the knowledge of any

SPUC STOCK PURCHASE AGREEMENT

officer of the Seller or SPUC holding a title, at least equivalent to vice president or general manager.

IN WITNESS WHEREOF, the parties hereto have executed this Stock Purchase Agreement as of the date first written above.

SELLER:

SAILFISH POINT, INC

By:

Dowdell Brown
Dowdell Brown, President

Attest:

Hal R. Bradford
Hal R. Bradford, Assistant Secretary

Date:

7/20/96

PURCHASER:

SAILFISH POINT PROPERTY OWNERS
AND COUNTRY CLUB ASSOCIATION,
INC.

By:

Jeff Jaffe
Jeff Jaffe, Chairman Transition Committee

By:

Harold Hansen
Harold Hansen, President

Attest:

Sonia Nelson
Sonia Nelson, Secretary

Date:

7/30/96

311501el.730

SPUC Stock Purchase Agreement

List of Exhibits

EXHIBIT NO.	EXHIBIT TITLE
3.2	Articles of Incorporation and Bylaws of SPUC
3.5	Profit and Loss Statements
3.6	Liabilities Remaining after Closing
3.8	List of Licenses and Permits
3.11	List of Uncollectible Accounts Receivable
3.12	List of Notices from Government Entities with Respect to Customer Service Agreements
3.13	Schedule of Insurance Contracts of SPUC
3.16	Description of Real Property Owned by SPUC
3.17	Schedule of Depreciable Assets (Fixed Assets)
3.18	Schedule of Employee Benefit Plans
3.20	Listing of Employees and Job Titles
3.26	Listing of Approvals Required
4.3	Listing of Permitted Changes in Conduct of Business prior to Closing
7.1	Seller's Certificate as to Representations and Warranties as of Closing
8.1	Purchaser's Certificate as to Representations and Warranties as of Closing

EXHIBIT NO. 3.2
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORP.

CERTIFICATE OF INCORPORATION
OF
SAILFISH POINT UTILITY CORPORATION
---ooOoo---

FIRST: The name of the corporation is
SAILFISH POINT UTILITY CORPORATION.

SECOND: Its registered office in the State of Delaware is located at No. 100 West Tenth Street, in the City of Wilmington, County of New Castle. The name and address of its registered agent at such address is The Corporation Trust Company.

THIRD: The nature of the business and objects and purposes for the conduct or promotion of which, and any of which, the corporation is formed are (1) to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware, and (ii) without limitation of the foregoing, to do any and all of the things hereinafter set forth to the same extent that a natural person might or could do, viz:

(1) To engage in the business of investment in and development and turning to account of lands or other real property and personal property of every kind and description.

(2) To purchase, lease or otherwise acquire lands or other real property and personal property of every kind and description, and to own, hold, mortgage, pledge, sell, convey, assign, take and give options with respect to, lease, exchange and otherwise dispose of, lands and other real property and personal property and to transfer rights and interests in such lands and other real property and personal property to other persons, firms or corporation, and to make contracts of any kind or nature whatsoever in connection with such lands and other real property and personal property.

(3) To purchase or otherwise acquire, construct, own, mortgage, pledge, sell, exchange and otherwise deal in and with machinery and equipment necessary or useful in the conduct of any of its business or operations.

(4) To acquire and pay for in cash, stocks or bonds of the corporation, or otherwise, and own, hold, sell or otherwise dispose of the good will, rights, contracts, evidences of indebtedness, assets and property

of any person, firm or corporation, and to undertake or assume the whole or any part of the obligations or liabilities of any such person, firm, association or corporation.

(5) To acquire, hold, use, sell, assign, lease, grant licenses in respect of, mortgage or otherwise dispose of letters patent of the United States or any foreign country, patent rights, licenses and privileges, inventions, improvements and processes, copyrights, trademarks and trade names, relating to or useful in connection with any business of this corporation.

(6) To guarantee, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of shares of the capital stock of, or any bonds, securities or evidences of indebtedness created by any other corporation or corporations organized under the laws of this state or any other state, country, nation or government, and while the owner thereof to exercise all the rights, powers and privileges of ownership, including the right to vote thereon.

(7) To enter into, make and perform contracts of every kind and description with any person, firm, association, corporation, municipality, county, state,

body politic or government or colony or dependency thereof.

(8) To borrow or raise moneys for any of the purposes of the corporation, and from time to time, without limit as to amount, to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures, and other negotiable or non-negotiable instruments and evidences of indebtedness, and to secure the payment of any thereof, and of the interest thereon by mortgage upon or pledge, conveyance or assignment in trust of the whole or any part of the property of the corporation, whether at the time owned or thereafter acquired and to sell, pledge or otherwise dispose of such bonds or other obligations of the corporation for its corporate purposes.

(9) To have one or more offices, to carry on all or any of its operations and business and without restriction or limit as to amount to purchase or otherwise acquire, hold, own, mortgage, sell, convey, or otherwise dispose of real and personal property of every class and description in any of the States, Districts, Territories or Colonies of the United States, and in any and all foreign

countries, subject to the laws of such State, District, Territory, Colony or Country.

(10) To engage in the business of constructing and operating sewer and water treatment facilities.

The business and purposes specified in the foregoing clauses shall, except where otherwise expressed, be in nowise limited or restricted by reference to, or inference from, the terms of any other clause in this certificate of incorporation, but the business and purposes specified in each of the foregoing clauses of this article shall be regarded as independent objects and purposes.

FOURTH: The total number of shares of stock which the corporation shall have authority to issue is One Thousand (1,000) shares of the par value of One Dollar (\$1.00) per share.

FIFTH: The names and mailing addresses of the incorporators are as follows:

<u>Name</u>	<u>Mailing Address</u>
M. A. Ferrucci	100 West Tenth Street Wilmington, Delaware 19801
K. L. Husfelt	100 West Tenth Street Wilmington, Delaware 19801
W. J. Reif	100 West Tenth Street Wilmington, Delaware 19801

SIXTH: The corporation is to have perpetual existence.

SEVENTH: The private property of the stockholders shall not be subject to the payment of corporate debts to any extent whatsoever.

EIGHTH: In furtherance, and not in limitation of the powers conferred by statute, the board of directors is expressly authorized:

To authorize and cause to be executed mortgages and liens upon the real and personal property of the corporation.

To establish and maintain branch offices and agencies of the corporation in any country of the world and to discontinue the same; to allocate to branch offices a portion of the corporation's capital and to increase or decrease this allocation from time to time as may seem desirable.

To grant through officers of the corporation, to agents, managers or representatives in the United States and foreign countries, powers of attorney to do and perform and to authorize others to do and perform specific acts connected with the business of the corporation, or to perform any and all acts or things

necessary or incidental to the carrying on of its business in such countries.

To set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose or to abolish any such reserve in the manner in which it was created.

By resolution or resolutions passed by a majority of the whole board, to designate one or more committees, each committee to consist of two or more of the directors of the corporation, which, to the extent provided in said resolution or resolutions or in the By-laws of the corporation, shall have and may exercise the powers of the board of directors in the management of the business and affairs of the corporation, and may have power to authorize the seal of the corporation to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be stated in the By-laws of the corporation or as may be determined from time to time by resolution adopted by the board of directors.

When and as authorized by the affirmative vote of the holders of a majority of the stock issued and outstanding having voting power given at a stockholders' meeting duly called for that purpose, or when authorized

by the written consent of the holders of a majority of the voting stock issued and outstanding, the board of directors shall have power and authority to sell, lease or exchange all of the property and assets of the corporation, including its good will and its corporate franchises, upon such terms and conditions and for such consideration, which may be in whole or in part shares of stock in, and/or other securities of, any other corporation or corporation, as its board of directors shall deem expedient and for the best interests of the corporation.

The corporation may in its By-laws confer powers upon its board of directors in addition to the foregoing and in addition to the powers and authorities expressly conferred upon it by statute.

NINTH: Meetings of stockholders may be held within or without the State of Delaware, as the By-laws may provide. The books of the corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the board of directors or in the By-laws of the corporation. Elections of directors need not be by written ballot unless the By-laws of the corporation shall so provide.

The corporation shall have power, acting through its board of directors, to make, alter or amend By-laws, provided, however, that By-laws made, altered or amended by the directors may be altered, amended or repealed by the directors or stockholders of the corporation.

TENTH: The corporation reserves the right to amend, alter, change or repeal any provisions contained in this certificate of incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

WE, THE UNDERSIGNED, being each of the incorporators hereinbefore named for the purpose of forming a corporation pursuant to the General Corporation Law of the State of Delaware, do make this certificate, hereby declaring and certifying that the facts herein stated are true, and accordingly have hereunto set our hands this 5th day of June, A.D. 1979.

M. A. Ferrucci
M. A. Ferrucci

K. L. Husfelt
K. L. Husfelt

W. J. Reif
W. J. Reif

In presence of:

E. L. Kinsler
E. L. Kinsler

STATE OF DELAWARE
OFFICE OF SECRETARY OF STATE

I, GLENN C. KENTON, Secretary of State of the State of Delaware, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Certificate of Incorporation of the "SAILFISH UTILITY CORPORATION", as received and filed in this office the fifth day of June, A.D. 1979, at 10 o'clock A.M.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Dover this fifth day of June in the year of our Lord one thousand nine hundred and seventy-nine.

GLENN C. KENTON
Secretary of State

O. E. DENNEY
Ass't. Secretary of State

" Secretary's Office "
" "
" 1855 Delaware 1793 "

Received for Record

June 5th, A.D. 1979.

Leo J. Dugan, Jr., Recorder.

STATE OF DELAWARE :
: SS.:
NEW CASTLE COUNTY :

Recorded in the Recorder's Office at
Wilmington, in Incorporation Record ,
Vol. Page &c., the 5th day
of June, A.D. 1979.

Witness my hand and official seal.

Leo J. Dugan, Jr.

Recorder.

""""""""""
" Records Office "
" New Castle Co. Del. "
" Mercy Justice "
""""""""""

BY-LAWS

of

SAILFISH POINT UTILITY CORPORATION

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ARTICLE I

STOCKHOLDERS

Section 1. Place of Meetings

All meetings of the stockholders, both annual and special, shall be held at the office of the Corporation in the City of Wilmington, State of Delaware, or at such other place as may be fixed by the Board of Directors and stated in the notice of meeting, or indicated in a duly executed waiver of notice thereof.

Section 2. Annual Meeting

An annual meeting of the stockholders for the election of Directors and for other purposes, commencing with the year 1980, shall be held on the third Wednesday in July in each year, if not a legal holiday, and if a legal holiday then on the business day next following, at 2:30 o'clock P. M.

Section 3. Special Meetings

Unless otherwise prescribed by law or by the Certificate of Incorporation, special meetings of the stockholders (a) may be called by the President and (b) shall be called by the President, any Vice President or the Secretary at the request in writing of one Director, or at the request in writing of stockholders owning twenty per cent of the capital stock of the Corporation issued and outstanding and entitled to vote. Such request shall state the objects of the proposed meeting. The business transacted at any special meeting shall be confined to the objects stated in the call.

Section 4. Notice

Except as otherwise prescribed by law written notice of each annual and each special meeting of the stockholders, stating the time, place and objects thereof, shall be served upon or mailed, postpaid, to each stockholder entitled to vote thereat at such address as appears on the books of the corporation, not more than sixty nor less than ten days next preceding the day of the meeting; provided, however, that notice of any such meeting need not be given to any stockholder who shall attend such meeting in person or by proxy or shall, either in person or by duly authorized attorney, waive notice thereof in writing or by telegram, cablegram or radiogram, either before or after such meeting.

meeting need not be given unless the adjournment is for more than thirty days or unless after the adjournment a new record date is fixed for the adjourned meeting.

Section 5. List of Stockholders

The officer who has charge of the stock ledger of the corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten hours where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof and may be inspected by any stockholder who is present.

Section 6. Quorum

The holders of fifty-one percent of the stock issued and outstanding and entitled to vote thereat, present either in person or by proxy, shall constitute a quorum at

all meetings of the stockholders and shall be requisite for the transaction of all business and when a quorum is present at any meeting the vote of the holders of a majority of the stock having voting power present either in person or by proxy shall decide any question brought before such meeting, except as otherwise provided by law, by the Certificate of Incorporation or by these By-laws. In the absence of a quorum the stockholders of the Corporation entitled to vote, present either in person or by proxy, may, except as provided in Section 4 of these By-laws, by a majority vote adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum shall be present or represented. At such adjourned meeting, at which a quorum shall be present or represented, any business may be transacted which could have been transacted at the meeting for which notice was originally given. /

Section 7. Voting

Each stockholder of record entitled to vote in accordance with law, the Certificate of Incorporation of these By-laws shall be entitled at every meeting of the stockholders of the Corporation to one vote for each share of stock having voting power registered in his name on the books of the Corporation. Each such stockholder may vote by proxy, but no proxy shall be

voted on after three years from its date unless said proxy provides for a longer period.

ARTICLE II

DIRECTORS

Section 1. Number - Qualifications - Term - Removal

The number of Directors which shall constitute the whole Board shall be six. Directors need not be stockholders. Except as may be otherwise provided by law, by the Certificate of Incorporation or by these By-laws, the Directors shall be elected at the annual meeting of the stockholders and each Director shall be elected to serve until his respective successor is elected and qualified. Any one or more of the Directors may be removed either with or without cause at any special meeting of the stockholders called for that purpose by a vote of stockholders holding a majority of all the issued and outstanding stock entitled to vote thereat.

Section 2. Powers

The business of the Corporation shall be managed by its Board of Directors, which shall have and may exercise all the powers of the Corporation to do all such lawful acts and things as are not by law, or by the Certificate of Incorporation, or by these By-laws, directed or required to be exercised or done by the stockholders.

Section 3. Place of Meetings - Books

The Directors may hold their meetings and keep the books of the Corporation outside of the State of Delaware and at such place or places as they may from time to time determine.

Section 4. Committees of Directors

The Board of Directors may, by resolution or resolutions passed by a majority of the whole Board, designate one or more committees, each committee to consist of one or more of the Directors of the Corporation, which to the extent provided in said resolution or resolutions shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Corporation.

Section 5. Newly Created Directorships and Vacancies

Newly created directorships resulting from an increase in the authorized number of directors, and vacancies in the Board of Directors resulting from any cause, may be filled by a majority of the Directors then in office though less than a quorum or by a sole remaining director, and the Directors so chosen shall hold office until the next annual election and until their respective successors are elected and qualified.

Section 5. Compensation

Directors as such shall not receive any stated salary for their services, provided that nothing herein contained shall be construed to preclude any Director from serving the Corporation in any other capacity and receiving compensation therefor.

ARTICLE III
MEETINGS OF THE BOARD

Section 1. Organization Meeting

When Directors shall have been elected at a meeting of the stockholders, the newly elected Board may meet for the purposes of organization or otherwise at such time and place as shall be fixed by the vote of the stockholders at said meeting. No notice of such meeting of the Board shall be required.

Section 2. Regular Meetings

Regular meetings of the Board may be held at such time and place as shall from time to time be determined by a majority vote of the whole Board at any validly convened meeting. No notice of any regular meeting shall be required.

Section 3. Special Meetings

Special meetings of the Board (a) may be called by

the President on one day's notice to each Director given either personally or in writing or by telegram, cablegram or radiogram, and (b) shall be called by the President, any Vice President or the Secretary in like manner and on like notice upon the written request of one Director; provided, however, that no notice shall be required of any special meeting of the Board at which all the members shall be present, or of any meeting of which notice shall be waived by all absentees either before or after the meeting in writing or by telegram, cablegram or radiogram.

Section 4. Quorum

At all meetings of the Board two Directors shall be necessary to constitute a quorum for the transaction of business, and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by law, by the Certificate of Incorporation or by these By-laws. In the absence of a quorum at any meeting a majority of the Directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 5. Participation in Meetings by Conference Telephone

Members of the Board, or of any committee thereof,

may participate in a meeting of such Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other and such participation shall constitute presence in person at such meeting.

ARTICLE IV

OFFICERS

Section 1. Number

The officers of the Corporation shall be appointed or elected by the Board of Directors. The officers shall be a Chairman of the Board, a President, a Vice Chairman of the Board (if the Board so determines), a Secretary, a Treasurer, a Controller, and such number of vice presidents, assistant secretaries, assistant treasurers and assistant controllers as the Board may from time to time determine. The President shall be the chief executive officer of the Corporation. Two or more offices may be held by the same person.

Section 2. Other Officers and Agents

The Board of Directors may elect or appoint such other officers, agents and factors as it shall deem necessary.

Section 3. Terms of Office

The Chairman of the Board, the President, the Vice

Chairman of the Board, the Secretary and the Treasurer shall hold their offices until their successors are chosen and qualified, subject to the provisions of Section 4. All other officers and agents shall hold their respective offices or positions at the pleasure of the Board of Directors.

Section 4. Removal

Any officer may be removed from office at any time by the Board of Directors with or without cause.

Section 5. Duties

The officers and agents shall perform the duties and exercise the powers usually incident to the offices or positions held by them respectively, and/or such other duties and powers as may be assigned to them from time to time by the Board of Directors or the President.

ARTICLE V

INDEMNIFICATION OF DIRECTORS, OFFICERS AND EMPLOYEES

Section 1. Authorization for Indemnification of Directors and Officers in Actions by or in the Right of the Corporation to Procure a Judgment in its Favor.

Any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he, his testator or intestate is or was a director or officer of the Cor-

poration or, while such director or officer, is or was serving any other corporation, partnership, joint venture, trust or other enterprise at the request of the Corporation shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Section 2. Authorization for Indemnification of Directors or Officers in Actions or Proceedings Other Than by or in the Right of the Corporation to Procure a Judgment in its Favor.

Any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action suit or proceeding (other than an action by or in the right of

the Corporation), whether civil, criminal, administrative or investigative by reason of the fact that he, his testator or intestate, is or was a director or officer of the Corporation or, while such director or officer, is or was serving another corporation, partnership, joint venture, trust or other enterprise at the request of the Corporation shall be indemnified against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful.

The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that any such director or officer did not act in good faith and in a manner which he reasonably believed to be in the best interests of the Corporation, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 3. Payment of Indemnification Other Than by Court Award.

(a) To the extent a person has been successful on

the merits or otherwise in the defense of any action, suit or proceeding referred to in Section 1 or Section 2, or in the defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(b) Except as provided in paragraph (a), any indemnification under Sections 1 or 2, unless ordered by a court, shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification is proper in the circumstances because the director or officer has met the applicable standard of conduct set forth in said Sections:

- (1) By the Board of Directors by a majority vote of a quorum of Directors who were not parties to such action, suit or proceeding, or
- (2) If such a quorum is not obtainable, or even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or
- (3) By the stockholders.

(c) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition thereof as authorized by the Board of Directors in the manner provided in paragraph (b) upon

receipt of an undertaking by or on behalf of the director or officer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized herein.

Section 4. General

The foregoing provisions of this Article V shall be deemed to be a contract between the Corporation and each director and officer who serves in such capacity at any time while this By-law is in effect, and any repeal or modification thereof shall not affect any rights or obligations then existing with respect to any state of facts then or theretofore existing or any action, suit or proceeding theretofore or thereafter brought based in whole or in part upon any such state of facts.

The provisions of this Article V shall be applicable to claims, actions, suits or proceedings made or commenced after the adoption of this Article, whether arising from acts or omissions to act occurring before or after the adoption of this Article.

The foregoing rights of indemnification shall not be deemed exclusive of any other rights to which those indemnified may be entitled apart from the provisions of this Article.

The Board of Directors in its discretion shall, to the full extent permitted by the laws of the State of Delaware,

have power on behalf of the Corporation to indemnify, in addition to any indemnity to which such person is entitled as a matter of right under said laws, any person, other than a director or officer, made a party to any action, suit or proceeding by reason of the fact, that he, his testator or intestate, is or was an employee of the Corporation.

ARTICLE VI

MISCELLANEOUS

Section 1. Fiscal Year

The fiscal year shall be the calendar year.

Section 2. Offices

The principal office of the Corporation in the State of Delaware shall be at 100 West 10th Street, Wilmington, Delaware. The Corporation may have such additional offices within or without the State of Delaware as the Board of Directors may from time to time determine.

Section 3. Seal

The corporate seal shall have inscribed thereon the name of the Corporation, the year of its incorporation and the words "Corporate Seal Delaware".

Section 4. Amendments

These By-laws may be altered or repealed (a) at any

annual meeting of the stockholders by the affirmative vote of a majority of the stock issued and outstanding and entitled to vote thereat, or by like vote at any special meeting of the stockholders if notice of the proposed alteration or repeal be contained in the notice of the meeting, or (b) by the affirmative vote of a majority of the whole Board of Directors at any regular meeting of the Board, or by like vote at any special meeting of the Board if notice of the proposed alteration or repeal be contained in the notice of the meeting.

STATEMENT OF INCORPORATORS
IN LIEU OF ORGANIZATION
MEETING
OF
SAILFISH POINT UTILITY CORPORATION
---ooOoo---

The certificate of incorporation of this corporation having been filed in the office of the Secretary of State, the undersigned, being all of the incorporators named in said certificate, do hereby state that the following actions were taken on this day for the purpose of organizing this corporation:

1. By-laws for the regulation of the affairs of the corporation were adopted by the undersigned incorporators and were ordered inserted in the minute book immediately following the copy of the certificate of incorporation and before this instrument.

2. The following persons were elected as directors to hold office until the first annual meeting of stockholders or until their respective successors are elected and qualified:

F. Donaldson
G. J. Hardman
E. A. Kavounas
R. W. Schiessler
D. T. Seaquist, Jr.
D. J. Waller

3. The board of directors was authorized, in its discretion, to issue the shares of the capital stock of this corporation to the full amount or number of shares authorized by the certificate of incorporation, in such amounts and for such considerations as from time to time shall be determined by the board of directors and as may be permitted by law.

Dated, June 5th, 1979.

M. A. Ferrucci
M. A. Ferrucci

K. L. Husleit
K. L. Husleit


W. J. Reif
W. J. Reif

WAIVER OF NOTICE
of
FIRST MEETING OF DIRECTORS
of
SAILFISH POINT UTILITY CORPORATION


....

We, the undersigned, all being Directors of SAILFISH POINT UTILITY CORPORATION, a Delaware corporation, hereby waive all notice whatsoever of the time, place and purpose of the first meeting of Directors of said Corporation, and do hereby agree and consent that the same be held at 150 East 42nd Street, New York, N. Y., on the 6th day of June, 1979, at 3:00 o'clock P.M., for the purpose of electing officers; authorizing the issuance of the capital stock; completing the organization of said Corporation; and transacting such other business as may properly be brought before the meeting.

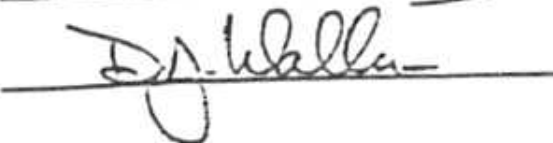
Dated: New York, N. Y.
June 6, 1979



E.A.K.



R.W.S.



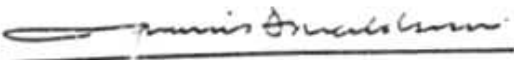
D.J.W.

WAIIVER OF NOTICE
of
FIRST MEETING OF DIRECTORS
of
SAILFISH POINT UTILITY CORPORATION

....

We, the undersigned, both being Directors of SAILFISH POINT UTILITY CORPORATION, a Delaware corporation, hereby waive all notice whatsoever of the time, place and purpose of the first meeting of Directors of said Corporation, and do hereby agree and consent that the same be held at 150 East 42nd Street, New York, N. Y., on the 6th day of June, 1979, at 3:00 o'clock P.M., for the purpose of electing officers; authorizing the issuance of the capital stock; completing the organization of said Corporation; and transacting such other business as may properly be brought before the meeting.

Dated: San Francisco, California
June 6, 1979



F.D.



G.J.H.

EXHIBIT 3.5
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORPORATION

Profit and Loss Statements

The attached Profit and Loss Statements reflect the receipts and expenditures of the business for each of the previous two complete years and for the six months of the current year.

311501en.35

SAILFISH POINT UTILITY CORPORATION
CASH OPERATING INCOME SUMMARY
For Full Years 1994 and 1995 and Six Months Ending June 30, 1996

	1994 FULL YEAR ACTUAL	1995 FULL YEAR ACTUAL	1996 SIX MONTHS ACTUAL
Revenue			
Service Income	<u>660,757</u>	<u>669,950</u>	<u>342,434</u>
Total Revenue	660,757 ^a	669,950 ^a	342,434 ^a
Gross Profit	660,757	669,950	342,434
Operating Expenses			
Salaries and Labor Burden	(130,334)	(138,653)	(66,455)
Employee Expense	(1,512)	(583)	(312)
Property Tax Expense	(61,848)	(46,737)	(22,559)
Other Tax Expense	(33,697)	(32,674)	(35,274)
Telephone, Postage and Courier	(1,394)	(2,548)	(385)
Utility Expense	(51,636)	(52,143)	(26,715)
Rent Expense	(1,612)	(2,071)	(1,174)
Equipment and Furniture	(21,211)	(10,510)	(519)
Legal and Accounting Fees	-	(99)	-
Other Professional Fees	(3,346)	(4,346)	(1,602)
Contract Services	(56,729)	(56,336)	(34,585)
Repair & Maintenance Expense	(27,608)	(62,136) ^b	(128,704) ^b
Insurance	(978)	(1,118)	(630)
Parts and Supplies	(67,455)	(75,190)	(38,438)
Other Expense	<u>(2,599)</u>	<u>(4,278)</u>	<u>(15,234)</u>
Total Operating Expenses	(481,957)	(492,382)	(372,766)
Net Cash Operating Income (Loss)			
Before Taxes ^c	<u>178,800</u>	<u>177,568</u>	<u>(30,352)</u>

^a Excludes CIAC collections of \$67M ('94), \$24M ('95), and \$29M (YTD '96).

^b Extraordinary maintenance included are roof repairs \$47M in '95, \$18M in '96 and bulkhead repair \$68M in '96. Also, in '96, the wastewater plant filter material was replaced (needed every 6-10 years, cost \$17M). Excluding these extraordinary items, 1995 is about \$15M, and 1996 YTD is about \$26M.

^c These figures do not include depreciation expense, rate case expense amortization, CIAC revenue amortization, intercompany financing charges and Florida region allocated overhead.

**SAILFISH POINT UTILITY CORPORATION
RECONCILIATION TO BOOK INCOME BEFORE TAX
For Full Years 1994 and 1995 and Six Months Ending June 30, 1996**

	1994 FULL YEAR ACTUAL	1995 FULL YEAR ACTUAL	1996 SIX MONTHS ACTUAL
RECONCILIATION TO BOOK INCOME BEFORE TAX			
Net Cash Operating Income/ (Loss) Before Taxes	178,800	177,558	(30,352)
Less Depreciation (non-cash)	(2,915,381)	(19,476)	0
Less Florida Region Allocated Overhead	(42,485)	(38,954)	(32,219)
Less Intercompany Financing Expense	(89,189)	(88,080)	(43,320)
Less Amortization of 1991 Rate Case Expenses (non-cash)	(17,726)	(17,726)	(14,774)
Plus Amortization of CIAC Revenue (non-cash)	<u>30,141</u>	<u>29,976</u>	<u>0</u>
Net Book Income (Loss) Before Taxes	<u>(2,855,820)</u>	<u>43,308</u>	<u>(120,665)</u>

EXHIBIT 3.6
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORPORATION

Liabilities Remaining after Closing

The following customers have prepaid hook-up fees as indicated:

REMAINING PREPAID CIAC COLLECTIONS
SAILFISH POINT UTILITY CORPORATION
AS OF JUNE 30, 1996

<u>Description</u>	<u>Account Number</u>	<u>Lot Number</u>	<u>Plat Number</u>	<u>Amount</u>
E. Carlton Wilton	1091	19	4	4,000.00
High Spec #3	1095	3	8	4,000.00
Timothy Ciasulli	1107	7	8	4,000.00
John Oliano	1118	1	14	4,000.00
Edward O'Reilly	1119	5	4	4,000.00
Timothy Ciasulli	1128	7	4	4,000.00
William Tavoulaareas	1129	5	14	4,000.00
Charles Buckridge	1130	11	14	4,000.00
Charles Buckridge	1131	12	14	4,000.00
Kenneth MacGillivray	5002	2	12	4,000.00

EXHIBIT NO. 3.8
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORP.

LIST OF LICENSES AND PERMITS -- Page 1 of 3

Agency	Permit Description	Issued	Expired
	WELL CONSTRUCTION PERMITS		
	Potable Well #1 - Construction Permit	WW - 43 - 10541	07/10/78
	(Certification that well #1 has been physically disconnected)		04/17/91
D.E.P	Potable Well #2 - Construction Permit	WW - 43 - 10541	07/10/78
D.E.P	Potable Well #6 - Construction Permit	WW - 43 - 58082	07/28/82
	RAW WATER TRANSMISSION SYSTEM CONSTRUCTION PERMITS		
D.E.P	Raw Water System - Construction Permit	WC - 43 - 24561	11/14/79
D.E.P	Raw Water System - Modification Permit	WC - 43 - 38514	03/23/81
D.E.P	Raw Water System - Clearance for Service	WO - 43 - 40922	03/24/81
D.E.P	Raw Water System - Construction Permit - well #6	WC - 43 - 136021	06/21/87
	DISTRIBUTION SYSTEM CONSTRUCTION PERMITS		
	Phase 1 - Water Dist. Sys. Construction Permit	DS - 43 - 40268	12/05/80
	(Includes Plat 1)		
J.E.P	Phase 1E - Water Dist. Sys. Construction Permit	DS - 43 - 48747	12/11/81
	(Includes Plats 4,8,9,14)		
	Townhomes - Water Dist. Sys. Construction Permit	DS - 43 - 38961	02/26/81
D.E.P	SP Club Ext - Water Dist. Sys. Construction Permit	DS - 43 - 35351	10/21/80
D.E.P	Plat 10 - Water Dist. Sys. Construction Permit	DS - 43 - 089537	07/03/84
D.E.P	Plat 11 - Water Dist. Sys. Construction Permit	DS - 43 - 089538	07/03/84
D.E.P	Plat 15 - Water Dist. Sys. Construction Permit	DS - 43 - 121243	06/18/86
D.E.P	Plat 16 - Water Dist. Sys. Construction Permit	DS - 43 - 139546	10/09/87
D.E.P	Plat 17 - Water Dist. Sys. Construction Permit	DS - 43 - 137539	04/15/88
D.E.P	Plat 18A - Water Dist. Sys. Construction Permit	DS - 43 - 146742	04/13/88
D.E.P	Plat 19 - Water Dist. Sys. Construction Permit	DS - 43 - 141114	02/16/89
D.E.P	Plat 20 - Water Dist. Sys. Construction Permit	DS - 43 - 145595	04/13/88
D.E.P	Plat 21 - Water Dist. Sys. Construction Permit	DS - 43 - 146743	04/13/88
D.E.P	Plat 22 - Water Dist. Sys. Construction Permit	DS - 43 - 138536	10/08/87
J.E.P	Plat 25 - Water Dist. Sys. Construction Permit	DS - 43 - 146743	04/13/88
D.E.P	Plat 27 - Water Dist. Sys. Construction Permit	DS - 43 - 154348	09/10/88
D.E.P	Plat 28 - Water Dist. Sys. Construction Permit	DS - 43 - 176795	03/28/90
D.E.P	Plat 29 - Water Dist. Sys. Construction Permit	DS - 43 - 169139	09/12/89
D.E.P	Plat 31 - Water Dist. Sys. Construction Permit	DS - 43 - 177846	04/17/90
D.E.P	Plat 33 - Water Dist. Sys. Construction Permit	DS - 43 - 221905	12/04/92

No construction permits were required for Plats 12,13 and 26, as these were service lines only.

EXHIBIT NO. 3.8
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORP.

LIST OF LICENSES AND PERMITS - Page 2 of 3

Agency	Permit Description	Issued	Expired	
COLLECTION SYSTEM CONSTRUCTION PERMITS				
D.E.P	Phase 1 - Collection Sys. Construction Permit	CS-43-38138	12/01/80	N/A
D.E.P	Phase 1 - Collection Sys. Construction Permit (Includes Plat 1)	CS-43-24560	12/12/80	N/A
D.E.P	Phase 1C1 - Collection Sys. Construction Permit (Includes Plats 4,8,9,14)	CS-43-39187	03/05/81	N/A
D.E.P	Townhomes - Collection Sys. Construction Permit	CS-43-38962	03/11/81	N/A
D.E.P	Plat 1E - Collection Sys. Construction Permit	CS-43-47714	12/11/81	N/A
D.E.P	SP Club Ext - Collection Sys. Construction Permit	CS-43-35352	10/21/80	N/A
D.E.P	Plat 10 - Collection Sys. Construction Permit	CS-43-089533	07/08/84	N/A
D.E.P	Plat 11 - Collection Sys. Construction Permit	CS-43-089534	07/06/84	N/A
D.E.P	Plat 13 - Collection Sys. Construction Permit	CS-43-109513	07/06/84	N/A
D.E.P	Plat 15 - Collection Sys. Construction Permit	CS-43-121246	06/17/86	N/A
D.E.P	Plat 16 - Collection Sys. Construction Permit	CS-43-139545	11/07/89	N/A
D.E.P	Plat 17 - Collection Sys. Construction Permit			
D.E.P	Plat 18A - Collection Sys. Construction Permit	CS-43-146741	04/06/88	N/A
D.E.P	Plat 19 - Collection Sys. Construction Permit	CS-43-141116	12/22/87	N/A
D.E.P	Plat 20 - Collection Sys. Construction Permit	CS-43-145388	04/12/88	N/A
D.E.P	Plat 21 - Collection Sys. Construction Permit	CS-43-146740	04/06/88	N/A
D.E.P	Plat 22 - Collection Sys. Construction Permit	CS-43-139537	10/08/88	N/A
D.E.P	Plat 25 - Collection Sys. Construction Permit	CS-43-146740	04/06/88	N/A
D.E.P	Plat 27 - Collection Sys. Construction Permit			
D.E.P	Plat 28 - Collection Sys. Construction Permit	CS-43-176796	03/02/90	N/A
D.E.P	Plat 29 - Collection Sys. Construction Permit			
D.E.P	Plat 31 - Collection Sys. Construction Permit			
D.E.P	Plat 33 - Collection Sys. Construction Permit	CS-43-221961	11/27/92	N/A
No construction permits were required for Plats 12 and 26, as these were service lines only.				
WASTEWATER TREATMENT PLANT PERMITS				
D.E.P	Wastewater Plant Construction Permit	DC-43-20457	08/23/79	N/A
D.E.P	Wastewater Plant Temporary Operating Permit	DT-43-108431	11/14/85	11/14/86
D.E.P	Wastewater Treatment Plant Modification Permit	DC-43-123414	10/23/86	N/A
D.E.P	Wastewater Treatment Plant Expansion Permit	DC-43-150566	02/26/90	N/A
D.E.P	Wastewater Treatment Plant Operation Permit	DC-43-212682	02/12/93	02/12/98
WATER TREATMENT PLANT PERMITS				
D.E.P	Water Plant Construction Permit	WC-43-20456	07/24/79	N/A
D.E.P	Water Plant Construction Permit Ext.	WO-43-40015	12/11/80	N/A
D.E.P	Water Plant Storage Tank Addition Permit	WC-43-60577	10/22/82	N/A
D.E.P	Water Plant Upgrading Construction Permit	WC-43-111149	06/18/87	N/A
D.E.P	Water Plant Modification Permit - Calcite Contactor	WC-43-147796	08/04/88	N/A
D.E.P	Water Plant Expansion Permit	WC-43-226495	11/02/93	11/02/98

EXHIBIT NO. 3.8
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORP.

LIST OF LICENSES AND PERMITS -- Page 3 of 3

Agency	Permit Description	Issued	Expired
RO PLANT DISCHARGE PERMITS			
F.D.E.S.	Federal RO Plant Discharge Permit	FL0037001	07/01/95 04/30/2000
	Industrial Waste Permit	FL0037001	04/01/96 04/01/2001
WATER USE PERMIT			
S.F.W.M.D.	RO Plant Water Use Permit	43-00146-W	07/09/92 04/09/2002
HAZARDOUS CHEMICALS PERMITS			
S.E.R.C.	Emergency & Hazardous Chemicals Inventory Report	75-1655883	03/01/96 03/01/97
D.E.P.	Pollutant Storage Tank Registration - Diesel Fuel	43-9501847	07/19/95 N/A
LABORATORY BASIC ENVIRONMENTAL CERTIFICATION			
	Laboratory Certification	PENDING	N/A N/A
COUNTY OCCUPATIONAL LICENSE			
Martin County	Private Utility Water & Sewer Occupational License	87-315-018	10/01/95 10/01/96
FLORIDA PUBLIC SERVICE COMMISSION			
F.S.C.	Florida P.S.C. Water Certificate	394-W	03/04/83 N/A
FL P.S.C.	Florida P.S.C. Wastewater Certificate	335-S	03/04/83 N/A
OPERATOR CERTIFICATION			
D.B.P.R.	Drinking Water Treatment Plant Operator - R. Marx	3455-B	06/12/79 N/A
D.B.P.R.	Drinking Water Treatment Plant Operator - T. Sarno	4465-C	08/05/82 N/A
F.P.R.	Wastewater Treatment Plant Operator - R. Marx	4306-B	08/23/78 N/A
F.P.R.	Wastewater Treatment Plant Operator - T. Sarno	6000-C	05/03/84 N/A

EXHIBIT 3.11
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORP.

List of Uncollectible Accounts Receivable:

NONE

**EXHIBIT NO. 3.12
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORP.**

**LIST OF NOTICES FROM GOVERNMENT ENTITIES WITH RESPECT TO
CUSTOMER SERVICE AGREEMENTS:**

NONE

EXHIBIT 3.13
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORP.

Schedule of Insurance Contracts:

NONE

**EXHIBIT 3.16
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORPORATION**

Parcel No. One (The Utility Parcel)

Parcel C-1, Plat No. 1-A SAILFISH POINT P.U.D., according to the Plat thereof, as recorded in Plat Book 8, Page 47 of the Public Records of Martin County, Florida, and

Parcel No. Two (The Effluent Tank Parcel)

A portion of Parcel No. 1, Plat No. 6 SAILFISH POINT P.U.D., more particularly described as:

A parcel of land lying in fractional Section 8, Township 38 South, Range 42 East, also lying within Golf Course Parcel Number "1" as shown on Plat Number 6, Sailfish Point P.U.D., recorded in Plat Book 8, Page 90 of the Public Records of Martin County, Florida. Said parcel being more particularly described as follows:

From the Southeast corner of said fractional Section 8, bear N 88°57'00" W, along the South line of said fractional Section 8, a distance of 1463.29 feet; thence N 1°03'00" E, a distance of 1610.88 feet to the Point of Beginning of the herein described parcel of land; thence N 23°45'36" W, a distance of 217.00 feet; thence N 66°14'24" E, a distance of 197.26 feet; thence S 23°45'36" E, a distance of 217.00 feet; thence S 66°14'24" W, a distance of 197.26 feet to the Point of Beginning of the herein described parcel of land.

Together with: 1) all easements and appurtenances to Parcel No. One and Parcel No. Two; and 2) all mains, lines, meters, pumps and equipment pertinent thereto which are located off the Lands but within Sailfish Point.

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STOCK PURCHASE AGREEMENT
FOR SAILFISH POINT UTILITY CORP

FIXED ASSET PROPERTY LISTING
CO/DIV 287 UNIT 718

DEC. 1995

PA 12002

ST-CNT-CITY
09-085-505

LOCAL 71801	CUSTOMER	LOCATION/CUSTOMER DESCRIPTION	ADDRESS	FL	FIRST COST
	SAILFISH POINT REALTY CORP		STUART		39,000
SRLV. R	BLDG VEH	SR	ASSET	QUILY	FIRST COST
DATE P	CODE NBR	ACC1 TR	---NUMBER-- CL/SC	ASSET DESCRIPTION	
PA 12 R		1601 112	0000022400 01-05	LAND INCLUDING ALLOCATED COSTS ***** TOTAL CLASS 01	39,000
					1,331
8101 P		1656	0000001800 33-21	PUMPING PLANT WATER-S & I	18,811
8106 P		1658	0000002600 33-21	PUMPING PLANT-OTHER POWER PROD EQ	17,184
8106 P		1658	0000003400 33-24	ELECTRIC PUMPING EQUIPMENT	13,802
8106 P		1658	0000004200 33-28	PUMPING PLANT-OTHER PUMPING EQUIP	757,944
8101 P		1656	0000005900 33-31	WATER TREATMENT PLANT-S & I	203,578
8106 P		1658	0000006700 33-32	WATER TREATMENT EQUIPMENT	56,633
8101 P		1658	0000007500 33-42	DISTRIBUTION RESERVOIR & STANDPIPES	286,101
8101 P		1658	0000008300 33-43	TRANSMISSIONS & DISTRIBUTION MAINS	5,773
8101 P		1658	0000009100 33-48	HYDRANTS	204,003
8101 P		1658	0000010900 33-52	COLLECT SEWER-FORCE PUMPING PLANT	7,697
8106 P		1658	0000011700 33-62	RECEIVING WELLS & PUMP PITS	29,893
8106 P		1658	0000012500 33-63	PUMPING EQUIPMENT	299,368
8106 P		1658	0000013300 33-72	TREATMENT & DISPOSAL EQUIPMENT	208,910
8106 P		1658	0000014100 33-73	PLANT SEWERS	22,014
8106 P		1658	0000015800 33-75	OTHER TREATMENT & DISPOSAL EQUIP	409,729
8101 P		1656	0000016600 33-90	TREATMENT & DISPOSAL PLANT-S & I	946
8101 P		1656	0000017400 33-11	SOURCE OF SUPPLY PLANT-S & I	157,895
8101 P		1658	0000018200 33-14	SOURCE OF SUPPLY-WELLS/SPRINGS	9,824
8412 P		1658 112 268092	0000019000 33-48	HYDRANTS HYDRANTS - PHASE 1E	8,402
8412 P		1658 112 268092	0000020800 33-25	ELECTRIC PUMPING EQUIPMENT ELECTRICAL BOOSTER PUMP PHASE 1E	

FR A121002

FIXED ASSET PROPERTY LISTING
CO/DIV 287 UNIT 718

DEC. 1995

LOCAL	CUSTOMER	LOCATION/CUSTOMER DESCRIPTION	ADDRESS	FL	ST-CNT-CITY
TRIBUT		SAILFISH POINT REALTY CORP	STUART		09-085-505
					FIRST COST
					337,272
8412 P		1658 112 268092 0000021600 33-52	COLLECT SEWER-FORCE PUMPING PLANT COLLECTION SEWERS PHASE II		84,277
8412 P		1658 112 268092 0000023200 33-32	WATER TREATMENT EQUIPMENT WATER TREATMENT PERMEATORS & PH III AFE'S 8217,8092		102,222
8412 P		1658 112 268092 0000024000 33-14	SOURCE OF SUPPLY-WELLS/SPRINGS WELL #6 DRILLING & CONNECTIONS		188,614
8412 P		1658 112 268092 0000025700 33-41	TRANSMISSIONS & DISTRIBUTION MAINS WATER DISTRIBUTION MAINS II & III		6,439
8412 R		1656 112 268092 0000026500 33-11	SOURCE OF SUPPLY PLANT-S & I WELL COVER - WELL #6		240,007
8412 P		1658 112 268227 0000027300 33-42	DISTRIBUTION RESERVOIR & STANDPIPES ADDITIONAL WATER STORAGE TANK		11,346
9112 P		1658 112 0000032300 33-25	ELECTRIC PUMPING EQUIPMENT NON-CORROSIVE TRANSFER PUMPS PSC III		44,823
9112 P		1658 112 0000033100 33-32	WATER TREATMENT EQUIPMENT AIR SCRUBBER PSC WUPA 320		38,482
9112 P		1658 112 0000034900 33-32	WATER TREATMENT EQUIPMENT CALCITE CONTACTOR PSC WUPA 320		108,550
9112 P		1658 112 0000035600 33-43	TRANSMISSIONS & DISTRIBUTION MAINS PARCELS TUVL AFES 5030 8072 PSC 331		910
9112 P		1658 112 0000036400 33-43	TRANSMISSIONS & DISTRIBUTION MAINS ISLAND/PHASE III A PSC WUPA 331		32,507
9112 P		1658 112 0000037200 33-43	TRANSMISSIONS & DISTRIBUTION MAINS PARCELS SWZ AFES 0041-B PSC WUP 331		109,999
9112 P		1658 112 0000038000 33-43	TRANSMISSIONS & DISTRIBUTION MAINS DUNE DRIVE AFES 7001-9021 PSC 331		33,584
9112 P		1658 112 0000039800 33-43	TRANSMISSIONS & DISTRIBUTION MAINS NORTH MARINA WAY PSC WUPA 331		12,210
9112 P		1658 112 0000040600 33-41	TRANSMISSIONS & DISTRIBUTION MAINS FAIRWAY LAKES PATIO LOTS PSC 331		23,258
9112 P		1658 112 0000041400 33-72	TREATMENT & DISPOSAL EQUIPMENT EFFLUENT TANK BY-PASS PSC SUPA 380		38,144
9112 P		1658 112 0000042200 33-52	COLLECT SEWER-FORCE PUMPING PLANT PARCELS SWZ AFES 0041-B PSC SUPA 36		7,214
9112 P		1658 112 0000043000 33-52	COLLECT SEWER-FORCE PUMPING PLANT FAIRWAY LAKES PATIO LOTS PSC 360		4,556
9112 P		1658 112 0000044800 33-52	COLLECT SEWER-FORCE PUMPING PLANT ISLAND /PHASE IIIA PSC SUPA 360		197,098
9112 P		1658 112 0000045500 33-52	COLLECT SEWER-FORCE PUMPING PLANT PARCELS TUVL AFES 5030/8072 PSC 360		135,581
9112 P		1658 112 0000046300 33-52	COLLECT SEWER-FORCE PUMPING PLANT DUNE DRIVE AFES 7001-9021 PSC 360		130,899
9112 P		1658 112 0000047100 33-52	COLLECT SEWER-FORCE PUMPING PLANT NORTH MARINA WAY PSC SUPA 360		4,607,830
			***** TOTAL CLASS 33		

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HF A32002

FIXED ASSET PROPERTY LISTING
CO/DIV 287 UNIT 718

DEC, 1995

LOCAT	-CUSTOMER-	---LOCATION/CUSTOMER DESCRIPTION---		-----ADDRESS-----		ST-CNT-CITY			
71801		SAILFISH POINT REALTY CORP		STUART		FL 09-085-505			
SRVC R	BLDG	VEH	SR	--A/E--	ASSET		FIRST COST		
JATE P	CODE	NBR ACCT	TR	R-NHBR-	--NUMBER--	CL/SC	ASSET DESCRIPTION-----QNTY		
9007 P		001 1654	CH	187002	0000029900	96-01	LIGHT TRUCKS (6001-12999 LBS.) FLEETSODE V-8 CHEVROLET PICK-UP 1GCDC14H1RKE14904	1 1	13,450 12,318
9007 P		003 1654	CH	188002	0000030700	96-01	LIGHT TRUCKS (6001-12999 LBS.) UTILITY TRUCK W/UTILITY BINS CHEVROLET PICK-UP 1GCF C2422 JZ289711	1 2	25,768
							***** TOTAL CLASS 96	2	39,000
							TOTAL LAND		6,439
							TOTAL REAL EXCL LAND		4,627,159
							TOTAL PERSONAL		4,672,598
							LOCATION TOTAL		

FIXED ASSET PROPERTY LISTING
CO/DIV 287 UNIT 710

DEC. 1995

		FIRST COST
(DISTRICT)	TOTAL LAND TOTAL REAL EXCL TOTAL PERSONAL	39,000 6,439 4,627,159
(REGION)	TOTAL LAND TOTAL REAL EXCL TOTAL PERSONAL	39,000 6,439 4,627,159
(UNIT)	TOTAL LAND TOTAL REAL EXCL TOTAL PERSONAL	39,000 6,439 4,627,159

EXHIBIT NO. 3.18
STOCK PURCHASE AGREEMENT
SAILFISH POINT UTILITY CORPORATION

Schedule of Employee Benefit Plans:

Life and Accidental Death and Dismemberment:
Combined Insurance Company of America
Policy OE235

Medical Coverage:
MetraHealth, Administrator for The Travelers Insurance Company
Policy 167207

EXHIBIT NO. 3.20
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORP.

LISTING OF EMPLOYEES, JOB TITLE AND COMPENSATION:

UTILITY DIRECTOR/SUPERVISOR: Richard Marx

Responsible to provide continuous, cost efficient operation of the Water and Wastewater Facilities. Liable to ensure governing regulatory agencies that the system is operated, maintained, and monitored in a manner prescribed by law. Chief controller of all utility functions - Administrative, Operations, Maintenance, Water and Wastewater Analysis, and Customer Service.

UTILITY OPERATOR/LABORATORY TECHNICIAN: Anthony Sarno

Operates treatment facility to control flow, processing of Water, Wastewater, Sludge, and Effluent. Routine monitoring of equipment. Completes and maintains logs and reports for Utility Regulatory Agencies. Daily inspection and operation of emergency equipment. Performs chemical, bacteriological, and physical tests and analysis of Water, Wastewater, Sludge, and Effluent as required. Maintains laboratory records, equipment, and supplies.

UTILITY DISTRIBUTION/COLLECTION MECHANIC: David Galloway

Repairs Water Mains, Force Mains, and gravity systems as required. Installation of new service lines. Inspects for breaks, backflow problems, and cross connections. Maintains Lift Stations and distribution tools and supplies. Performs meter installations and meter readings. Inspects and certifies plumbers water and sewer connections.

EXHIBIT 3.26
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORPORATION

Listing of Approvals Required from Others
for Seller's Execution of this Agreement

None

311501ex3.26

EXHIBIT 4.3
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORP.

List of Permitted Changes in Conduct of Business Prior to Closing:

NONE

EXHIBIT 7.1
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORPORATION

Seller's Certificate as to Representations and Warranties as of Closing

The undersigned hereby reconfirms that each of the representations and warranties made by Seller under the Stock Purchase Agreement are true and correct on and as of the Closing Date.

Sailfish Point, Inc.

Dated: _____

By: _____
Dowdell Brown, President

EXHIBIT 8.1
TO
STOCK PURCHASE AGREEMENT
FOR
SAILFISH POINT UTILITY CORPORATION

Purchaser's Certificate as to Representations and Warranties as of Closing

The undersigned hereby reconfirms that each of the representations and warranties made by Purchaser under the Stock Purchase Agreement are true and correct on and as of the Closing Date.

Sailfish Point Property Owners and
Country Club Association, Inc.

Dated: _____

By: _____
Harold Hansen, President

FINANCIAL AND TECHNICAL INFORMATION
DISPOSITION OF OUTSTANDING REGULATORY
ASSESSMENTS FEES, FINES OR REFUNDS OWED

As of this date, there are no outstanding regulatory assessment fees, fines or refunds owed.

FINANCIAL AND TECHNICAL INFORMATION
STATEMENT DESCRIBING FINANCING OF THE PURCHASE

Under the terms of the Stock Purchase Agreement, the Sailfish Point Utility Corporation will be conveyed to the Sailfish Point Property Owners and Country Club Association, Inc. for nominal consideration when compared to the book value or rate base of the utility. Payment to the transferor will be made from cash flow derived from a portion of the proceeds of future Contributions-In-Aide-of-Construction (CIAC) and only upon receipt of those collections. No portion of the purchase price will be paid from operating revenues of the utility.

**FINANCIAL AND TECHNICAL INFORMATION
LISTING OF ENTITIES PROVIDING FUNDING TO THE BUYER**

The Transferee is not relying on any other entities to provide funding for the transaction.

A Publication of FALR, Inc. P.O. Box 385,
Gainesville, FL 32602 (904) 375-8036

91 FPSC 9:7

BEFORE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a rate increase)	DOCKET NO. 900816-HS
in Martin County by SAILFISH POINT)	ORDER NO. 25092-A
UTILITY CORPORATION)	ISSUED: 10/01/91
_____)	

AMENDATORY ORDER

BY THE COMMISSION:

On September 23, 1991, this Commission issued Order No. 25092, setting rates and charges for Sailfish Point Utility Corporation. Schedules Nos. 4-A and 4-B of that Order were inadvertently omitted.

Accordingly, Order No. 25092 is amended to include these schedules which depict the water and wastewater rate decrease in four years following rate case expense recovery, and which are attached hereto.

It is, therefore,

ORDERED by the Florida Public Service Commission that Order No. 25092 is hereby amended to include Schedules Nos. 4-A and 4-B which are attached hereto. It is further

ORDERED that Order No. 25092 is affirmed in all other respects.

By ORDER of the Florida Public Service Commission, this 1st day of OCTOBER, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CB

Kay Flynn

Chief, Bureau of Records

91 FPSC 9:8

FPSC

ORDER NO. 15092-A
DOCKET NO. 900816-JS
PAGE 3

Schedule No. 4-A

UTILITY: Sailfish Point Utility Corporation

SCHEDULE OF RATES
AND RATE DECREASE
IN FOUR YEARS

WATER

Monthly Rates

	Commission Approved Rates	Rate Decrease
Residential, General Service, and Multi-Residential Service		
Base Facility Charge:		
Motor Size:		
5/8"x3/4"	\$22.90	10.42
1"	\$37.25	11.05
1-1/2"	\$114.50	12.10
2"	\$183.20	13.36
3"	\$366.40	16.71
4"	\$572.50	19.49
	\$1,145.00	\$20.98
Gallonage Charge per 1,000 G.	\$3.96	\$0.67

A Publication of FAIR, Inc. P.O. Box 385,
Gainesville, FL 32602 (904) 375-8036

91 FPSC 9:9

ORDER NO. 25092-A
DOCKET NO. 900816-W5
PAGE 4

Schedule No. 4-B

UTILITY Seafish Point Utility Corporation

SCHEDULE OF STAFF RECOMMENDED
RATES AND RATE DECREASE IN
FOUR YEARS

WASTEWATER

Monthly Rates

	Commission Approved Rates -----	Rate Decrease -----
Residential -----		
Base Facility Charge:		
Meter Size:		
All Meter Sizes	129.50	10.66
Gallagege Charge per 1,000 G. (Maximum 10,000 G.)	14.72	10.11
General and Multi-Residential Service -----		
Base Facility Charge:		
Meter Size:		
5/8"x3/4"	129.50	10.66
1"	173.75	11.70
1-1/2"	1147.50	13.39
2"	1236.00	15.43
3"	1472.00	110.85
4"	1737.50	116.96
6"	11,475.00	133.97
Gallagege Charge per 1,000 G.	15.66	10.13

FINANCIAL AND TECHNICAL INFORMATION
PROPOSED BOOK VALUE PLATE BASIS AT 10-31-06
SALFURN POINT UTILITY CORPORATION

Water	Description	Proposed Rate	PCU Approved Rate	Variance	Explanation
		Base 10-31-06	Order No. 75022 Date 8-7-01		
	Utility Fund to Service	2,801,848.00	2,706,175.00	95,673.00	Actual cost of the expansion of the water treatment plant was higher than projected to the rate base thing
	Land	18,500.00	18,500.00	0	No Variance
	Non-Plant and Land Components	0	(794,883.00)	794,883.00	Note: rate base thing have reduced the number of remaining customers and knocked up to base 20% of previous
	Accumulated Depreciation	(890,708.00)	(906,122.00)	(15,414.00)	Additional depreciation for the period July 1, 1992 (same including last day of last year) to October 31, 1996
	CMC	(900,313.00)	(794,023.00)	(106,290.00)	Collection from conclusion of last year to October 31, 1996
	Amortization of CMC	161,500.00	113,872.00	47,628.00	Amortization of CMC from conclusion of last year to October 31, 1996
	Working Capital	30,872.00	28,029.00	2,843.00	Increase in O&M Expenses
Total Water		1,267,848.00	1,423,236.00	(155,387.00)	

Wastewater	Description	Proposed Rate	PCU Approved Rate	Variance	Explanation
		Base 10-31-06	Order No. 75022 Date 8-7-01		
	Utility Fund to Service	2,446,423.00	2,421,208.00	25,214.00	Actual cost of the expansion of the wastewater treatment plant was higher than projected to the rate base thing
	Land	18,500.00	18,500.00	0	No Variance
	Non-Plant and Land Components	0	(588,308.00)	588,308.00	Note: rate base thing have reduced the number of remaining customers and knocked up to base 20% of previous
	Accumulated Depreciation	(588,394.00)	(628,862.00)	(40,468.00)	Additional depreciation for the period July 1, 1992 (same including last day of last year) to October 31, 1996
	CMC	(814,500.00)	(804,787.00)	(9,713.00)	Collection from conclusion of last year to October 31, 1996
	Amortization of CMC	133,270.00	84,394.00	48,876.00	Amortization of CMC from conclusion of last year to October 31, 1996
	Working Capital	28,898.00	18,023.00	10,875.00	Increase in O&M Expenses
Total Wastewater		1,614,307.00	1,586,130.00	28,177.00	

TOTAL RATE BASE 2,792,155.00 2,809,366.00 118,790.00

FINANCIAL AND TECHNICAL INFORMATION
STATEMENT OF REASONS FOR INCLUSION OF AN ACQUISITION ADJUSTMENT

No acquisition adjustment is being requested.

**FINANCIAL AND TECHNICAL INFORMATION
AVAILABILITY OF BOOKS AND RECORDS**

The books and Records of Sailfish Point Utility Corporation are available for inspection by the Commission at:

3300 PGA Blvd., Suite 900
Palm Beach Gardens, FL 33410

FINANCIAL AND TECHNICAL INSPECTION
AVAILABILITY OF FEDERAL INCOME TAX RETURNS

Sailfish Point Utility Corporation (SPUC) is currently a third tier wholly owned subsidiary of Mobil Corporation. Please see Exhibit "Q", "Explanatory Notes Relating to the Transfer". As a wholly owned subsidiary, SPUC's federal tax obligations are included in Mobil Corporation's consolidated tax return. The utility does not file a separate tax return with the Internal Revenue Service.

In Lieu of the tax returns, SPUC has provided the Sailfish Point Property Owners and Country Club Association, Inc. with analyses reconciling the book income to the tax income reported for SPUC in the years 1991 (the year the Commission most recently established a rate base for SPUC) through 1994. SPUC has assured the Sailfish Point Property Owners and Country Club Association, Inc. it will provide similar reconciliation for the 1995 and 1996 returns as soon as they become available.

Date

Harold R. Hansen
President
Sailfish Point Property Owners and
Country Club Association, Inc. and
Sailfish Point Service Corporation

FINANCIAL AND TECHNICAL INFORMATION
SYSTEM IN COMPLIANCE WITH
DEPARTMENT OF ENVIRONMENTAL PROTECTION STANDARDS

The Sailfish Point Property Owners and Country Club Association, Inc. is satisfied that as of the date of this application and after reasonable investigation, the Sailfish Point Utility Corporation water and wastewater systems appear to be in satisfactory condition and are in compliance with all applicable standards set by the Department of Environmental Protection.

Date

Harold R. Hansen
President
Sailfish Point Property Owners and
Country Club Association, Inc. and
Sailfish Point Service Corporation

**NOTICE OF ACTUAL APPLICATION
GOVERNMENT AGENCIES AND CERTIFICATED UTILITIES**

The affidavit and a copy of the Notice will be a late filed exhibit.

Exhibit L.

NOTICE OF ACTUAL APPLICATION
WATER AND WASTEWATER SYSTEM CUSTOMERS

The affidavit and a copy of the Notice will be a late filed exhibit.

NOTICE OF ACTUAL APPLICATION
PROOF OF PUBLICATION OF NOTICE

The affidavit and a copy of the Proof of Publication of Notice will be a late filed exhibit.

OTHER
WATER AND SEWER TARIFFS

The Utility is being sold to the Sailfish Point Service Corporation, a subsidiary of Sailfish Point Property Owners and Country Club Association, Inc., a not for profit entity whose membership consists of owners of Sailfish Point property. Effective with the statutory change of July 1, 1996, this not for profit entity will be exempt from the regulation of the Public Service Commission and as an exempt entity is not required to file sample tariffs.



ORIGINAL TO BE
INCLUDED WITH SUBMISSION
OF APPLICATION FOR SALE
ASSIGNMENT OR TRANSFER
OF CERTIFICATE OR FACILITIES

FLORIDA PUBLIC SERVICE COMMISSION

CERTIFICATE NUMBER

394-W

Upon consideration of the record it is hereby ORDERED that
authority be and is hereby granted to

SAILFISH POINT UTILITY COMPANY

Whose principal address is
6929 S. E. SOUTH MARINA WAY

STUART, FLORIDA 33494

(MARTIN)

to provide water service in accordance with the
provisions of Chapter 367, Florida Statutes, the Rules, Regula-
tions and Orders of this Commission in the territory described
by the Orders of this Commission.

This Certificate shall remain in force and effect until
suspended, cancelled or revoked by Orders of this Commission.

ORDER 11673 DATED 3/4/83 DOCKET 810277-W5

ORDER _____ DATED _____ DOCKET _____

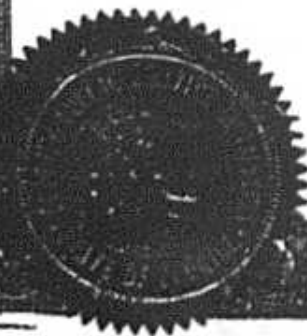
ORDER _____ DATED _____ DOCKET _____

ORDER _____ DATED _____ DOCKET _____

BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION

Commission Clerk

Executive Director





ORIGINAL TO BE
INCLUDED WITH SUBMISSION
OF APPLICATION FOR SALE
ASSIGNMENT OR TRANSFER
OF CERTIFICATE SA PAULINA

FLORIDA PUBLIC SERVICE COMMISSION

CERTIFICATE NUMBER

335-5

Upon consideration of the record it is hereby ORDERED that
authority be and is hereby granted to

SAILFISH POINT UTILITY COMPANY

Whose principal address is

6929 S. E. SOUTH MARINA WAY

STUART, FLORIDA 33494

(MARTIN)

to provide sewer service in accordance with the
provisions of Chapter 367, Florida Statutes, the Rules, Regula-
tions and Orders of this Commission in the territory described
by the Orders of this Commission.

This Certificate shall remain in force and effect until
suspended, cancelled or revoked by Orders of this Commission.

ORDER 11673 DATED 3/4/83 DOCKET 810277-WS

ORDER _____ DATED _____ DOCKET _____

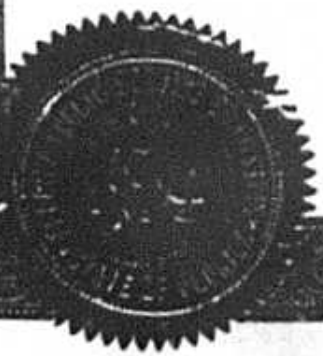
ORDER _____ DATED _____ DOCKET _____

ORDER _____ DATED _____ DOCKET _____

BY ORDER OF THE
FLORIDA PUBLIC SERVICE COMMISSION

Commission Clerk

Executive Director



BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Application for Transfer of
Sailfish Point Utility Corporation,
Its Assets and Its Operating Authority
to the
Sailfish Point Property Owners
and Country Club Association, Inc.

EXHIBIT Q

EXPLANATORY NOTES RELATING TO THE TRANSFER

EXHIBIT Q

EXPLANATORY NOTES RELATING TO THE TRANSFER

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Exhibit Q
Sailfish Point
Transfer Application
Page 3 of 15

A. The Transfer

The application for transfer of Sailfish Point Utility Corporation (hereinafter referred to as "the Utility" or "SPUC") calls for the transfer of the common stock of Sailfish Point Utility Corporation (including its assets and its operating authority) from Sailfish Point, Inc., (SPUC's parent company, referred to herein as the "Developer" or "SPI"), to the Sailfish Point Service Corporation (SPSC), a wholly owned not-for-profit subsidiary of the Sailfish Point Property Owners and Country Club Association, Inc. (hereinafter referred to as "the POA"). The transfer to SPSC is made pursuant to an assignment from POA. The POA is made up of, and represents, the residents at Sailfish Point. SPSC will operate as an exempt utility pursuant to Section 367.022(7), Florida Statutes. References herein to the transfer to the POA should be construed as transferring the Utility to SPSC, the POA's not-for-profit subsidiary.

Although other events make the transfer appear more complicated than that, the simple fact is that the Utility Corporation, its assets and its operating authority are being transferred from the Developer to SPSC, a wholly owned not-for-profit subsidiary of the POA.

B. The Utility

Sailfish Point Utility Corporation provides water and wastewater utility services to Sailfish Point, a residential development built by Sailfish Point, Inc. on the south end of Hutchinson Island, in Martin County, Florida. Sailfish Point Utility Corporation is a wholly owned subsidiary of SPI.

C. Asset Purchase Agreement
(Mobil Land and Westbrook Holdings)

The assets of Sailfish Point Utility make up only a small part of the total assets located at seventeen (17) separate residential developments throughout the United States which were owned by Mobil Land Development Corporation (a Delaware corporation) or its subsidiaries (hereinafter collectively referred to as "Mobil Land"). Sailfish Point is one of those 17 residential developments.

An Asset Purchase Agreement was entered into (effective as of May 15, 1996), between Mobil Land (as "Seller") and Westbrook Sailfish Holdings, L.P. (a Delaware limited partnership hereinafter referred to as "Westbrook" or "Purchaser"). As a part of that agreement, Mobil Land's assets at Sailfish Point (including the assets of Sailfish Point Utility Corporation), and its assets at the other 16 developments have been conveyed to Westbrook. Closing on the asset purchase of the 17 Mobil Land developments by Westbrook occurred on November 27, 1996.

With the uncertainty as to whether a settlement of litigation with the POA would be reached, and whether that settlement would include transfer of the Utility to the POA, the Utility's assets had to be included in the Asset Purchase Agreement with Westbrook, with the condition in the offering materials and in Westbrook's Asset Purchase Agreement that the Sailfish Point Utility assets might eventually have to be conveyed to the POA, if the POA were to receive the Utility as part of settlement of the pending litigation.

D. Litigation in the Circuit Court for Martin County, FL
(POA vs. the Developer)

Westbrook has been aware that certain litigation was pending in the Circuit Court in and for Martin County, Florida, in Case No. 94-489 CA and in a companion Case No. 94-493 CA, between the Developer interests and the POA. The litigation involved issues relating to certain aspects of the operation of the development and the turnover of control of the development from the developer, Sailfish Point, Inc., to the POA. Sailfish Point, Inc. is a wholly-owned subsidiary of Mobil Land Development Corporation and also is the sole owner of the common stock of the Utility. It is to the benefit of both Mobil Land and Westbrook to resolve the litigation with the POA.

E. The POA Litigation Settlement Agreement

Subsequent to the execution of the Asset Purchase Agreement with Westbrook (as of May 15, 1996), the Developer entered into a Litigation Settlement Agreement (dated July 30, 1996) with the POA.

Exhibit A to the Settlement Agreement discussed the resolution of the issues between the Plaintiff and Defendants, and Paragraph 2 (and its sub-paragraphs on pages 4 and 5 thereof) discussed the transfer of the water and wastewater plant and facilities to the POA as part of the litigation settlement. A copy of the relevant portions of the Exhibit A to the Settlement Agreement entered into on July 30, 1996 are attached hereto as Enclosure (1).

Exhibit 1 to Exhibit A to the Settlement Agreement is the Stock Purchase Agreement whereby Sailfish Point, Inc., as a condition of settlement of all pending issues in the litigation, agreed to transfer the Utility to the POA under the terms and conditions set forth therein. A copy of the Stock Purchase Agreement between Sailfish Point, Inc. and the POA (Exhibit 1 to Exhibit A to the Settlement Agreement) is included as Exhibit "B" to the application for transfer.)

The Settlement Agreement was written to become effective five (5) days after entry of the Circuit Court's Order granting the Plaintiff's (POA's) Motion for Approval of the Settlement Agreement. That Order on Motion to Approve Settlement Agreement was entered by the Circuit Court on October 29, 1996, and a copy is

attached hereto as Enclosure (2). On November 26, 1996, some dissident residents filed a Notice of Appeal of the Circuit Court's Order, and a copy of the notice is attached hereto as Enclosure (3). (It should be noted that the appeal also seeks review of a separate Order of the Circuit Court entered on November 13, 1996, not relevant to the transfer. For information, a copy of that Order on Motion for Summary Judgment and Defendants' Cross-Motion for Summary Judgment as to County VI of the Complaint is attached hereto as Enclosure (4).)

F. Sailfish Point Utility's Role
in the Westbrook Asset Purchase Agreement
and in the POA Litigation Settlement Agreement

The assets of Sailfish Point Utility are a very small part of the asset sale from Mobil Land to Westbrook, and the Utility is only one aspect of the litigation settlement with the POA. However, the Utility assets were required to be conveyed to Westbrook pursuant to the Asset Purchase Agreement (subject to possible resolution of the POA litigation), and the POA is entitled to transfer of the Utility and its assets to the POA as a condition of reaching a settlement of the litigation. Time has moved forward, and both of these circumstances have introduced some timing differences into the resolution of the Utility transfer.

All three entities (Mobil Land, Westbrook and the POA) understand and agree that the ultimate objective is to reach a

settlement of the litigation in Martin County which will include a transfer of the Utility, its assets and its operating authority to the POA pursuant to the Settlement Agreement entered into on July 30, 1996.

G. Continued Operation of the Utility

The Utility will continue to be operated by the same individuals under the direction of Mr. Richard Marx (who has supervised the day-to-day operation of the Utility for over 15 years) until the transfer of the Utility, its assets and its operating authority to the POA is finally approved by the Florida Public Service Commission. The POA has indicated that it plans to continue the employment of the current individuals in the operation of the utility after the Commission grants approval of the transfer.

Under its water and sewer certificates, Sailfish Point Utility Corporation continues to be ultimately responsible to the PSC for the operation of the utility until approval of the transfer. Operational control normally would have been turned over to the POA during pendency of the PSC transfer application. However, the Circuit Court's Order (which is now on appeal to the 4th D.C.A.) and the Settlement Agreement itself (as approved by the Circuit Court's Order) both prevent the POA from receiving or operating the utility until after PSC approval. Although SPUC and some related

Mobil Land subsidiaries continue in existence, they are shell corporations and SPUC has arranged for Westbrook to provide operational oversight until the PSC approves the transfer to the POA.

H. Steps Necessary to Accomplish the Utility Transfer

Due to the prior existence of the Asset Purchase Agreement with Westbrook, and due to certain timing differences, the transfer to the POA will be accomplished in the following steps which have been, or will need to be, completed (but not necessarily in this order):

1. Because an Asset Purchase Agreement was entered into with Westbrook Holdings effective as of May 15, 1996, Mobil Land has executed documents to convey the assets at the 17 residential developments (including the Utility assets at Sailfish Point) to Westbrook. Closing was held on November 27, 1996. However, both the Settlement Agreement (finally entered into between Sailfish and the POA) and the Circuit Court's Order approving that Settlement Agreement now call for transfer of the Utility (and its assets) to the POA after, and only after, the Public Service Commission approves the transfer to the POA. All three entities are aware, and agree, that any transfer of the Utility, its assets or its operating authority is subject to approval by the Florida Public Service Commission in Tallahassee, Florida, (hereinafter referred

to as "the Commission" or "the PSC").

2. The sale of the Utility's assets to Westbrook was agreed to by Mobil Land, subject to possible resolution of the litigation with the POA. Now that the litigation Settlement Agreement has been approved by the Circuit Court (and assuming that the Circuit Court's Order is upheld on appeal), Westbrook will be compelled to transfer the Utility assets to the POA, (subject to approval by the PSC).

3. The Circuit Court in and for Martin County, Florida, has entered its Order approving the proposed settlement of the litigation between the POA and Sailfish Point, Inc., et al. On or about November 26, 1996, a Notice of Appeal to the Florida Fourth District Court of Appeal was filed by a few dissident residents at Sailfish Point.

4. A joint application will be filed with the Florida Public Service Commission by the Developer and the POA seeking Commission approval for the transfer of the utility to the POA. As part of that application for transfer, the Commission also will be requested to approve the transfer of all the Utility assets from the Utility (SPUC), through Westbrook, to the POA, and to approve the transfer of Water Certificate No. 330-W and Sewer Certificate No. 277-S to the POA. The POA then will hold the common stock of Sailfish Point Utility Corporation, its assets, and its water and sewer certificates.

5. Sailfish Point, Inc., as part of the settlement agreement with the POA, will transfer all the common stock in the Utility to the POA (subject to approval by the PSC). That transfer will occur shortly after the PSC approves the transfer of the Utility's water and sewer operating authority to the POA.

6. As a condition for the PSC's grant of approval for the transfer, Westbrook will convey to the POA all the Utility assets (of SPUC) which it received as a part of the asset purchase from Mobil Land (and its subsidiaries), and proof of ownership of the assets by the POA (and the recording of such documents as may be required) will be filed with the PSC as a condition of the PSC order becoming final.

7. After approval of the transfer by the PSC, the POA will then merge Sailfish Point Utility Corporation into its not-for-profit corporation and operate the utility as an exempt entity without further action of the PSC (pursuant to Section 367.022(7), Florida Statutes, and Section 367.031, Florida Statutes, as amended by Ch. 96-407, Laws of Florida (1996).)

I. Jurisdiction

It is important to recognize the different, respective jurisdictional authorities of the Florida Public Service Commission and of the Circuit Court of Martin County. The PSC has exclusive jurisdiction to grant or deny the application for transfer of the

Utility's ownership, its assets and its operating authority to the POA. On the other hand, the Circuit Court in Martin County has had exclusive jurisdiction over certain matters pending in the litigation, including whether it is in the best interest of the residents of Sailfish Point to own and operate the Utility through their POA.

J. Avoiding a Catch-22

The Circuit Court's finding was contingent upon the resolution of all issues pending between the Developer and the POA. Otherwise, the Utility would not be transferred to the POA. The Court has rendered a determination, based on the causes of action pending before the Court, that the POA may appropriately accept and operate the Utility. The Court has not been called upon to approve or disapprove the actual transfer, which is within the exclusive jurisdiction of the Florida Public Service Commission pursuant to Chapter 367, Florida Statutes.

K. The Solution

A direct transfer of the common stock (including the assets and the operating authority) of the Utility from the Utility company's present owner, Sailfish Point, Inc., to the POA certainly would have been simpler, and if events had unfolded on a different time schedule, that might have been accomplished. However, as

events have unfolded day by day and month by month, we find that the Utility and its assets have become an integral part of both pending matters, the asset sale from Mobil Land to Westbrook and the demand by the POA that the Utility be transferred to the POA as a condition for resolving the litigation between the POA and the Developer. If the litigation Settlement Agreement had been entered into and the Court had approved that Settlement prior to the Asset Purchase Agreement with Westbrook, those facts and the disposition of the Utility would have been known and the utility assets could have been left out of the Westbrook transfer.

In the continuing day-to-day operations of both the residential development and the Utility at Sailfish Point, the transfer of the Utility to the POA is the most appropriate action under the circumstances, and is required by contract (subject to PSC approval). The three entities (Mobil Land, Westbrook and the POA) all will benefit by disposing of the litigation, an essential part of which is the transfer of the Utility to the POA.

As for the application for transfer filed with the PSC, we must take the facts as we find them. To resolve the litigation, the POA demands that the Utility must be transferred to the POA. To complete the asset sale of 17 residential developments to Westbrook under the previously existing contract, the assets (including the Utility assets) had to be transferred to Westbrook subject to possible settlement of the litigation which would

require transfer of the Utility, its assets and its operating authority to the POA. Westbrook is aware of, and does not object to, the resolution of the pending litigation (involving other Sailfish development assets as well as the Utility) in Martin County, and Westbrook is bound to transfer the Utility assets to the POA under the terms of the Settlement Agreement executed by the POA and the Developer on July 30, 1996, which was assigned to, and assumed by, Westbrook at closing.

Prior to the Westbrook closing, Westbrook knew of the litigation pending in the Circuit Court of Martin County and received the assets of the 17 developments (including the Sailfish Point utility assets) subject to all contracts and agreements entered into by Mobil Land subsidiaries prior to the Westbrook closing. Therefore, as a part of the resolution of the Martin County litigation regarding several matters at Sailfish Point, Westbrook expects to, and is bound to, execute documents to convey the assets to the POA as soon as approval of the transfer is given by the Public Service Commission.

L. Conclusion

The bottom line is that the application for transfer calls for the transfer of Sailfish Point Utility Corporation, its assets and its operating authority from Sailfish Point, Inc. to the Sailfish Point Property Owners and Country Club Association, Inc. The sale of 17 residential developments to Westbrook and the settlement of the multi-faceted litigation with the POA in Martin County, Florida, do not change that simple fact.

All parties have agreed that the contract provisions relating to the transfer of the Utility, its assets and its operating authority, all are subject to approval of the Florida Public Service Commission.

Enclosure (1)
to Exhibit Q

Sailfish Point
Transfer Application
Page 1 of 4

EXHIBIT A TO SETTLEMENT AGREEMENT
CASE NO.: 94-489 CA
MARTIN COUNTY CIRCUIT COURT

AGREEMENT
between
SAILFISH POINT, INC.
and
MOBIL LAND DEVELOPMENT (FLORIDA) CORPORATION
and
SAILFISH POINT UTILITY CORPORATION
and
SAILFISH POINT PROPERTY OWNERS AND COUNTRY CLUB ASSOCIATION, INC.

W I T N E S S E I H

This Agreement, made this 30th day of July, 1996, between Sailfish Point, Inc., ("Developer"), Mobil Land Development (Florida) Corporation ("MLDFL"), Sailfish Point Utility Corporation ("SPUC") and the Sailfish Point Property Owners and Country Club Association, Inc. ("POA");

2. WATER AND WASTEWATER TREATMENT PLANT AND FACILITIES

- 2.1 The wastewater and water treatment facilities serving Sailfish Point including the real property improvements constructed thereon, associated water distribution pipes, systems, manholes and meters and wastewater collection pipe systems and manholes wherever located on Sailfish Point, the wells, pumps, pipes, equipment and all licenses and permits related thereto and all other property and assets currently used by Sailfish Point Utility Corporation in providing water and wastewater treatment services will be transferred to POA.
- 2.2 The transfer will be accomplished pursuant to the stock transfer agreement attached hereto as Exhibit 1.
- 2.3 The consideration for the transfer of the stock of SPUC is the releases to be given by POA, as provided in paragraph 8 herein, dismissal of the Sailfish Point Litigation as provided in the Settlement Agreement and the Purchase Price to be funded solely from future hook-up charges as provided in Exhibit 1 hereto.
- 2.4 The parties acknowledge there are requirements of the Florida Public Service Commission ("PSC") to effect the transfer and upon transfer to exempt SPUC from PSC regulation pursuant to the non-profit association exemption provided in Section 367.022(7) Florida Statutes. Within thirty days after the Effective Date of this Agreement, POA will cause the applications to be filed. In anticipation of the approval of this Agreement, Developer and SPUC will provide POA with information required to complete the applications. Each party agrees to cooperate in good faith to comply with such requirements and to do and perform such acts and execute such documents as may be necessary to effect the transfer and exemption in accordance with such requirements. The transfer is expressly conditioned upon approval of such transfer by the PSC. Cost of special legal, accounting or other fees and expenses to achieve transfer and exemption are to be split equally between POA and Developer.
- 2.5 Pending Closing, SPUC will operate the business in the ordinary course; will use its best efforts to preserve the good will of its suppliers and others having business relations with it; will keep and maintain the property, machinery and equipment in its present operating condition, repair and working order; will use its best efforts to perform all its obligations under contracts relating to or affecting the assets and properties; will make no new contracts or commitments except usual trade purchases; will allow POA and its representatives, by appointment, to examine during normal business hours, all books and records of SPUC and make copies as reasonably requested, and, unless

Enclosure (1)
to Exhibit Q

Sailfish Point
Transfer Application
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EXHIBIT A TO SETTLEMENT AGREEMENT

prior written permission from POA otherwise has been given, will not declare or pay or make any dividend or other distribution or payment with respect to its shares.

2.6 SPUC will transfer all equipment in its present operating condition, free from apparent defects (other than those which may be corrected by routine maintenance, repair and replacement parts) which would impair their ordinary commercial utility, and, together with the other assets of SPUC, will be sufficient to enable SPUC to conduct the business of SPUC as it is currently being conducted.

2.7 POA shall hold Developer harmless of and from any and all claims made with regard to any occurrence, the happening of which occurs after the transfer of the stock of SPUC to POA, in connection with the operation of the business of SPUC or the ownership, use, maintenance or control by SPUC of any of its assets or facilities.

2.8 Developer shall hold POA harmless of and from any and all claims made with regard to any occurrence, the happening of which occurs before the transfer of SPUC to POA, in connection with the operation of the business of SPUC or the ownership, use, maintenance or control by SPUC of any of its assets or facilities.

EXHIBIT A TO SETTLEMENT AGREEMENT

documents, and when received will be reviewed by the POA in the same manner as any other application.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their properly authorized officers on the dates shown opposite the signatures.

Witnesses:

Tom Reeves King
Signature
Tom Reeves King
Print Name

SAILFISH POINT PROPERTY OWNERS
ASSOCIATION, INC.

By: Jeff Jaffe
Jeff Jaffe, Chairman Transition Committee
By: Harold Hansen
Harold Hansen, President
Attest: Sonia Nelson
Sonia Nelson, Secretary

Tom Reeves King
Signature
Tom Reeves King
Print Name

SAILFISH POINT, INC.

By: Dowdell Brown
Dowdell Brown, President
Attest: Hal R. Bradford
Hal R. Bradford, Assistant Secretary

Tom Reeves King
Signature
Tom Reeves King
Print Name

MOBIL LAND DEVELOPMENT (FLORIDA)
CORPORATION

By: Dowdell Brown
Dowdell Brown, Pres dept
Attest: Hal R. Bradford
Hal R. Bradford, Assistant Secretary

Tom Reeves King
Signature
Tom Reeves King
Print Name

SAILFISH POINT UTILITY CORPORATION

By: Dowdell Brown
Dowdell Brown, President
Attest: Hal R. Bradford
Hal R. Bradford, Assistant Secretary

IN THE CIRCUIT COURT OF THE 19TH
JUDICIAL CIRCUIT, IN AND FOR
MARTIN COUNTY, FLORIDA.

CASE NO.: 94-489 CA
JUDGE: CYNTHIA ANGELOS
CLASS REPRESENTATION

SAILFISH POINT OWNERS
REPRESENTATIVES BY JEFF JAFFE,
Chairman, HAROLD HANSEN, Vice
Chairman, and MICHAEL DEL COLLO,
Member, and SAILFISH PROPERTY OWNERS
AND COUNTRY CLUB ASSOCIATION, INC.

Plaintiffs,

vs.

SAILFISH POINT INC., MOBIL LAND
DEVELOPMENT CORP., SAILFISH
POINT MARINA CORPORATION, and
SAILFISH POINT UTILITY CORPORATION,

Defendants.

ORDER ON MOTION TO APPROVE SETTLEMENT AGREEMENT

This matter comes before the Court on Plaintiffs' and Defendants' Joint Motion for Approval of Settlement Agreement. An evidentiary hearing was conducted on October 10, 1996, at which Plaintiffs and Defendants and fourteen unnamed class members, who appeared by counsel and collectively referred to themselves as "Concerned Class Members," presented testimony and other evidence. Additionally, the Court heard testimony from twelve owners at Sailfish Point, two of whom had opted out of the class. The hearing began at 10:00 a.m. and ended after 7:00 p.m. including a lunch recess.

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Prior to the October 10, 1996, hearing, the Court heard various motions at which testimony and other evidence was received. Pursuant to previous orders of the Court the Settlement Agreement and all of its attached exhibits, was sent to each of the 524 owners at Sailfish Point along with a Comment Sheet on which the owner could indicate approval or disapproval of the Settlement Agreement and write comments if desired. Those sheets were returned to a local public accounting firm who tabulated them and provided the results to the Court, to the parties and to counsel appearing on behalf of unnamed class members. Of the 285 owners who returned the comment sheet, 162 approved, 108 disapproved and 15 failed to indicate either choice.

One of the major contentions of the Concerned Class Members was that promises had been made by those who were negotiating the settlement with the Developer that the owners would be permitted to vote on approval or disapproval of the agreement before it became final. Although the owners had been kept fully informed of the status and issues involved in the ongoing negotiations by periodic mailings, detailed informational meetings and resident involvement, and further the residents approved the terms of the settlement by written ballots indicating 364 approvals and 26 disapprovals, the Concerned Class Members argued that a formal vote still should have been held. For informational benefit of the Court in considering the Joint Motion, the Plaintiff Sailfish Point Property Owners and Country Club Association, Inc. agreed to hold a meeting pursuant to its Bylaws at which its members could again vote on approval or disapproval of the Settlement Agreement. That meeting was held on October 11, 1996. The votes cast at that meeting were 256 for, 149 against and 7 abstentions. Owners who did not choose to vote numbered 114.

Considering the evidence presented at the various hearings, the statements made by owners at the October 10th hearing, the pleadings, the memoranda of argument and law previously submitted with respect to intervention and subclass status sought by Concerned Class Members and with respect to the lis pendens issues, the Court is sufficiently apprised of the operative facts, the pertinent

authorities and positions of the parties and of the Concerned Class Members to render findings of fact and conclusions of law as to the reasonableness, adequacy and fairness of the settlement as it is required to do in a class action.¹

The Court determines that issues regarding the lack of authority of the Plaintiff Sailfish Point Property Owners and Country Club Association, Inc. to enter into the Settlement Agreement on behalf of its members, as a result of failures to follow the requirements of the governing documents; promises previously made by persons who were on the board of directors; the majority needed for approval of the vote conducted and other reasons which have been addressed in testimony and arguments of Concerned Class Members and the statements of other owners, are not properly before the Court. None of those issues have been properly raised by any party in any motion or pleading which is currently before this Court. Concerned Class Members sought to raise those issues in their efforts to establish a subclass and to intervene to oppose the settlement on the basis of its unfairness and inadequacy, however, never scheduled for hearing a Motion to Intervene or any Motion that would have properly brought said issues before the Court. Consequently, the sole role of the Court is to carry out the statutory review requirement imposed by Fla. R. Civ. Proc. 1.220(e) and determine whether the settlement reached by the parties is fair to the unnamed class members who, by its terms, are required to release all claims and rights which arise out of the matters and things included in this action or which could have been included in this action.

In reviewing the reasonableness, adequacy and fairness of a proposed class action settlement the Court is not to determine whether, considering the evidence anew, it or unnamed class members

¹ See Carson v. American Brands, Inc., 450 U.S. 79, 101 S. Ct. 993, 67 L. Ed. 2d 59 (1981)

would have reached the same result as the Class Representatives.² Rather, the Court is required to consider the likelihood of success at trial; the range of possible recovery if Plaintiffs were to prevail at trial; the relative point on or below the range of possible recovery at which a settlement may be considered fair and adequate; the relative complexity, expense and duration of litigation; the substance and the amount of opposition to the settlement; and the stage of the proceedings at which the settlement was achieved.³

The testimony showed that representatives of the owner and the Developer have been engaged in "transition" negotiations for at least the past six years. In 1993 a new group was elected to pursue those negotiations on behalf of the owners. That group set up a committee structure in which more than 100 of the Sailfish Point owners participated. The purpose of the committees were to canvass the owners, determine the matters which were of concern and develop those into a position paper to be used as an objective for negotiations. The position paper was finalized and

² *Steinberg v. Carey*, 470 F. Supp 471 (SDNY 1979) (the function of the court in reviewing a settlement is not to reopen and enter into negotiations with litigants in the hope of improving the terms of the settlement, nor is the court called upon to substitute its business judgment for that of the parties who worked out the settlement), *In re Armored Car Antitrust Litig.*, 472 FSupp 1357 (ND Ga 1979) (the court should be reluctant to interpose its business judgment for that of the settlers; rather, the litigants should be encouraged to determine their respective rights between themselves; here, the court acknowledged the extensive experience of counsel for plaintiffs and defendants and acceded to their business judgment), *Sommers v. Abraham Lincoln Fed Sav & Ln Assn.*, 79 FRD 571 (ED Pa 1978) (in evaluating the success of the case at trial, the court is not to substitute its own business experience for that of experienced counsel, especially in a case of this length and complexity); *McNary V. Amer. Sav & Ln. Assn.*, 76 FRD 644, 649 (NDTex 1977) (courts have consistently refused to substitute their business judgment for that of counsel, absent evidence of fraud or overreaching); *Hammon v. Barry*, 752 FSupp 1087 (DDC 1990) (a court should not substitute its judgment for that of the proponents of the settlement unless the settlement is clearly inadequate).

³ See *In Re Dennis Greenman Securities Litigation*, 622 F. Supp. 1430 (S.D. Fl 1985); Moore, *Federal Practice*, ¶ 23.80[4], p. 23-520 to 23-525.

transmitted to all residents. The testimony was that it represented a political statement of the matters which were of concern to the residents and it was not intended to and did not represent a statement of the legal obligations which the Developer may owe to the residents.

The operative facts concerning the items contained in the position paper were further investigated by the committee residents and by experts hired by the residents at a cost in excess of \$500,000.

As the negotiations continued without resolution, the residents became concerned about possible statute of limitation issues. Complaints in this class action and in a companion derivative action were prepared and filed in 1994. Shortly after filing an order was entered upon the joint motion of the parties staying these proceedings in order to allow the parties to continue to pursue resolution of these matters by agreement. Subsequently, the stay was lifted when the Plaintiffs prepared and filed notices of lis pendens which the Defendants sought to have dissolved. By order of September 27, 1995, this action was certified for class representation on behalf of all owners, except the Defendants, of improved and unimproved lots in Sailfish Point. Notice of pendency of class action and rights of class members was sent to each owner at Sailfish Point. Among other things the notice advised was that any owner who did not wish to be bound by the results of the action could be excluded by notifying the Court of that desire on or before November 30, 1995. Eighteen owners requested to be excluded from the class. At a status conference on May 14, 1996, the parties announced that they had reached settlement in principle. The Settlement Agreement was executed by the parties on July 30, 1996.

In order to properly review this settlement consistent with the required standards, the nature and types of claims must be reviewed. Count I of the Complaint alleges that Defendant Sailfish Point, Inc. was required by the Declaration of Covenants and Restrictions for Sailfish Point to maintain, repair, replace and restore the beach strip designated on Plat 24 while that Defendant had title thereto;

that it failed to properly perform that responsibility and instead conveyed title to the beach strip to the Property Owners Association in an unmaintained and unrestored condition imposing upon the Association and its members a greater responsibility to carry out the Association's duty to maintain the beach strip as a common area within the development. Damages are sought for the cost required to restore and repair the beach strip as a result of the failure of Sailfish Point, Inc.

The evidence with regard to that claim showed that other provisions of the Declaration placed into question whether the provision relied upon by the Plaintiff as requiring the Developer to maintain, repair, replace and restore applied to the beach strip before it was platted and dedicated to the Association. The language contained in the Declaration requires platting as a prerequisite to the Developer's obligation. Plaintiffs' sole basis for liability is questionable at best since the Plaintiffs contend the Developer should have maintained it pursuant to that paragraph because there is no statutory or common law obligation requiring a developer to maintain the shoreline upon the Atlantic Ocean; especially in view of the many disclaimers contained in the development documents. The Court concludes that the likelihood of the Plaintiff prevailing on the liability issue as to the Count I claim was in considerable doubt.

Likewise, the evidence showed that the experts who had studied the erosion issue were not in agreement on the proper method for ameliorating it. All agreed the erosion was affected by the deficiencies in the north jetty to the St. Lucie Inlet and until that could be sand tightened, beach renourishment efforts would be temporary at best and therefore the benefits to be obtained were not justified by the cost to be incurred. Efforts had been made by Developer and others to perform repairs on the north jetty but, because it is a federal project, it could not be repaired by private interests. Nevertheless, in recognition of the erosion problem and to ameliorate its damage, the Developer, at a cost of \$547,000, obtained a permit and constructed a sheet pile groin north of the jetty which proved to have a beneficial effect upon the southern portion of the Sailfish Point beach.

Additionally, the Settlement Agreement provides for a \$437,000 payment from the Developer to the Association over the next three years for erosion control uses.

There was some evidence from a newspaper article that a contract had been let by Palm Beach County to restore a beach about the same length as the Sailfish Point beach at a cost of approximately four million dollars. Other evidence indicated erosion control measures in the range of one-two million dollars had been suggested by various experts.

The Court concludes on the record before it that proving damages as to the Count I claims within reasonable certainty would be a difficult task for the Plaintiffs and that the maximum damages would be in the \$1 to \$3 million dollar range.

Count II of the Complaint seeks a declaratory judgment against Sailfish Point, Inc. and Sailfish Point Marina Corporation finding that the Developer failed to provide upland spoil areas within Sailfish Point or other suitable spoil sites and Plaintiffs demand a declaratory judgment that the Association has no responsibility to maintain any channels located in the Indian River or in the St. Lucie Inlet so as to provide access to the Marina or Inland Harbor at Sailfish Point or to be responsible for obtaining or maintaining any permits for dredging in any such access channel or to participate in the funding thereof; and that the development documents place that responsibility upon the Developer and/or the Marina owner. An injunction is sought prohibiting Developer from selling the Marina and relinquishing its rights as Developer until adequate provision has been made for the continued maintenance dredging of the access channels and disposal of the spoil created thereby.

The evidence shows the Developer has completed the dredging of the access channels to the Marina pursuant to its obligations under the Marina sales contract and has constructed a spoil disposal and dewatering site upon three beachfront lots, constructed a permanent pipeline to the spoil area and has granted a license to the Marina owner for the continued use of those three lots as spoil disposal sites for a period of three years.

Count III of the Complaint seeks a declaratory judgment finding that the Developer is required to deregulate its utility operation by December 31, 1995 and to convey the sewage and water treatment facilities at Sailfish Point or the stock of Sailfish Point Utility Corporation to either the Association or some government entity. As supplemental relief, Plaintiffs seek to enjoin Developer and Sailfish Point Utility Corporation from conveying the title to the utility parcel, any improvements constructed thereon or the stock of SPUC to any person or entity other than the Association or some government entity and a mandatory injunction requiring Developer to deregulate SPUC by December 31, 1995.

The evidence shows that the Declaration of Covenants and Restrictions restricts the entities who may hold title to the utility parcel to the Developer, Sailfish Point Utility Corporation, and the Association or any government entity and require the utility parcel to always be used for sewage and water treatment facilities and service only to all owners and users of the Sailfish Point property.

The Settlement Agreement resolves this issue by conveyance of the stock of Sailfish Point Utility Corporation to the Association at no cost to the Association free and clear of all obligations except trade accounts incurred in the usual course of business. The evidence showed that the water treatment and sewage disposal plant owned and operated by SPUC is excellently constructed and maintained with a fair market value of \$2.8 million.

Count IV seeks damages against the Developer based upon an implied obligation of the Developer to construct improvements upon portions of the land within Sailfish Point, title to which is conveyed to the Association to be used, operated, maintained, repaired, replaced or restored by the Association for the benefit of all owners and users of Sailfish Point in accordance with approved plans and specifications, good design, engineering and construction practices and applicable codes and standards. It is alleged that such obligation was breached and that the improvements were

constructed with defects and deficiencies as identified in various engineering reports. Damages in the amount necessary to correct the deficiencies are sought.

Liability of a developer of a non-condominium association in Florida for defective construction based upon an implied warranty of habitability and fitness for use of improvements constructed on real estate which are not the part of any residential structure or required for the proper functioning of such residential structure has not been established by any statutory or common law authority binding upon this Court. The Developer contends in the Joint Motion for Approval of Settlement Agreement that the issue is controlled by Port Sewall Harbor and Tennis Club Association v. First Federal Savings and Loan of Martin County, 463 So.2d 530 (4th DCA 1985) and Conklin v. Hurley, 428 So.2d 654 (Fla. 1993). Conklin holds that a seller's implied warranty to the original purchaser of residential real estate applied only to the residential structures themselves and not to the bulkheads containing the fill upon which the homes there involved were constructed. Port Sewall, citing Conklin, refused to imply a warranty to defective roads and drainage systems constructed in a subdivision which did not pertain to the construction of homes and other improvements immediately supporting the residences. Through its review of these cases as well as the claims in this action and the evidence presented, the Court concludes that the liability of the Developer for the alleged construction defects to the improvements constructed by the Developer upon the common areas at Sailfish Point is in doubt.

The evidence is that during the negotiations, the engineering committee of the residents and the negotiators reviewed each of the items identified in the various engineering reports with representatives of the Defendants and agreed to place those items in one of two categories: maintenance related and original construction defects. As a result of those negotiations, the Developer agreed to and has made or contributed to repairs of the construction defects in the amount of \$600,000. No agreement was reached as to other items in which repair costs were estimated at

approximately \$554,000. Ultimately, those claims were settled together with the claim for reimbursements for improper charges contained in Count V, for the sum of \$500,000 to be paid by the Developer.

Count V alleges that while Developer was in control of the Property Owners Association, it caused the Association to pay for repairs and maintenance to Sailfish Point property to which the Developer had title and by virtue thereof was obligated to maintain; delayed expenditures for repairs to portions of the property to which the Association had title so that Developer's *pro rata* share of such expenditures would be less and caused the Association to purchase and pay for capital items which should have been initially provided by the Developer. The Complaint alleges that such excess charges exceeded \$600,000.

The evidence showed that the representatives of the owners caused an itemization to be made of all items which arguably could be included in any of the categories alleged as improper charges. Subsequently, during numerous meetings with the Developer's personnel, each item was discussed. As a result of that process, many of the items were shown to be proper Association expenditures. Ultimately, after all accounting records were reviewed and analyzed, the Property Owners Association Board concluded that \$114,000 was the largest good faith claim that could be advanced. Those were settled by inclusion with the defective construction items as part of the \$500,000 payment to be made by the Developer.

Count VI seeks a declaratory judgment that the Sales Center Parcel may not be used for purposes other than marketing Sailfish Point property unless Developer retains title to the Parcel, and such other use as is approved by Martin County. An injunction against Developer conveying title to the Sales Center Parcel to any third party not identified in the Declaration as being authorized to take title to the Sales Center Parcel is sought.

This claim is resolved in the Settlement Agreement by a Joint Motion for Summary Judgment declaring that the provisions of the Declaration of Covenants and Restrictions, the Supplementary Declaration of Covenants and Restrictions for Plat 1, and the Supplementary Declaration of Covenants and Restrictions for Plat 13, which relate to the uses which can be made of the Sales Center Parcel and whether its ownership is restricted to only the Developer, the Property Owners Association, any builder, or a condominium association, are ambiguous when considered and read together. The motion seeks judgment declaring that the Declaration of Covenants and Restrictions for Sailfish Point and the Supplementary Declarations of Protective Covenants and Restrictions for Plats No. 1 and 13 Sailfish Point PUD relating to future uses and conveyances of the Sales Center Parcel, are ambiguous and are susceptible to reasonable construction permitting the Developer to market and convey the Sales Center Parcel as an ocean-front residential lot.

No evidence has been presented by the Concerned Class Members indicating that the proposed motion for summary judgment erroneously interprets the provision of the documents cited therein or contains improper conclusions to be reached therefrom.

Concerned Class Members presented testimony opposing the provision of the Settlement Agreement by which the Association will purchase the stock of the Sailfish Point Realty Corporation and relocate the realty operation from the Sales Center Parcel into another building to be constructed at the Association's cost on another parcel within Sailfish Point. The Court heard testimony as to the value of the real estate business and concludes that the terms of the purchase of the stock of Sailfish Point Realty Corporation provided in the Settlement Agreement are reasonable and well within the range of values reflected in the testimony.

Count VII seeks damages against the Developer for failing to provide a "full service" country club operation sufficient to fulfill the food, beverage and entertainment needs of the residents given the remote location of Sailfish Point and to plan for and provide land area and facilities sufficient to

serve the needs of the Association and to house the equipment, supplies, materials and operations reasonably required to perform the property management and maintenance functions imposed.

No evidence was presented by the parties indicating any specific deficiencies which formed the basis of this claim or any specific legal basis to support it. Counsel for Plaintiff testified that the Complaint was drafted in an attempt to find a legal basis to support the items contained in the position paper which had been prepared to reflect the concerns of the residents and to serve as a guide for objectives during the transition negotiations. Item 2 of the position paper recites that the Country Club and its facilities are not large enough to satisfy the needs of a full complement of 600 resident families and that Mobil must take steps to fulfill its obligation to provide a facility which is adequate for the designed population which must include Parcel M being conveyed to the P.A. at no cost.

The evidence showed that the likelihood of prevailing at trial with a theory such as this would be minimal.

The Settlement Agreement provides for the purchase of Parcel M by the Property Owners Association at a cost of \$850,000. The appraiser who testified on behalf of the proponents of the Settlement Agreement found the fair market value of Parcel M to be \$930,000. The appraisal testimony offered on behalf of Concerned Class Members testified to a fair market value of \$550,000. The evidence is that Parcel M is an oceanfront lot, well in excess of an acre, which abuts the Country Club facilities, is vacant and is the only available property to accommodate future Country Club expansion. The Court finds that the \$850,000 purchase price for Parcel M is well within the range of the testimony. Having concluded that the Association paid fair market value for Parcel M, that transaction has no monetary effect upon the Settlement Agreement.

Pursuant to Florida Rule of Civil Procedure 1.220(e), the Court must, in this class action, approve the proposed settlement and dismissal of this case. The standard is whether the proposed settlement is fair, reasonable and adequate to the class. See Carson v. American Brands, Inc., 450

U.S. 79, 101 S. Ct. 993, 67 L. Ed. d. 59 (1981). As discussed below this Court has considered the following factors: (1) the likelihood of success at trial; (2) the range of possible recovery that Plaintiffs would realize if they prevailed at trial; (3) the relative point on or below the range of possible recovery at which a settlement may be considered fair and adequate; (4) the complexity, expense and duration of litigation; (5) the substance and the amount of opposition to the settlement; (6) the stage of the proceedings at which the settlement was achieved. See In Re Dennis Greenman Securities Litigation, 622 F. Supp. 1430 (S.D. Fl. 1985); Moore, Federal Practice, ¶ 23.80[4], p. 23-520 to 23-525.

LIKELIHOOD OF SUCCESS AT TRIAL

This Court received the testimony of attorney Wm. Reeves King, attorney John Young, and attorney Michael B. Buckley. While the Court understands that Mr. Buckley is the attorney for the Defendant in this action and accordingly discounted portions of his testimony, as well as placed a differing weight to it than that placed on the testimony of Mr. King and Mr. Young, for the most part, the Court finds the testimony of these witnesses to be credible and the Court specifically finds that the substance of their testimony demonstrates a high degree of understanding of the claims presented. This Court further finds that those claims which were most likely to succeed at trial including but not limited to defects of the clubhouse and code violations were previously funded by the Defendants at a cost of \$600,000 and therefore, no further recovery would be available with respect to those claims. The clear and un rebutted testimony Wm. R. King and John Young persuade this Court that although the claims were well pled, they were certainly susceptible to being resolved adversely to the Plaintiffs prior to their submission to a jury. John Young testified that he believed that there was a substantial likelihood of a majority of these claims being resolved favorably to the Defendants by way of Motion for Summary Judgment or Motion for Directed Verdict. The

opponents of the Settlement Agreement proffered no expert testimony addressing the likelihood of success at trial, despite having the opportunity to do so. There was no competent expert testimony contravening the testimony of Mr. King, Mr. Young, and Mr. Buckley's testimony. Based on this Court's consideration of the pleadings, the relevant case law, and the testimony at the hearing it concludes that the probability of success at trial is slight.

THE RANGE OF POSSIBLE RECOVERY IF PLAINTIFFS PREVAIL AT TRIAL

This Court received expert testimony from Wm. R. King and John Young regarding the potential range of recovery if liability were decided in favor of Plaintiffs and against the Defendants. Both Mr. King and Mr. Young testified that the calculation of damages for claims such as beach erosion, dredging and the necessity of providing a spoil site in perpetuity was in fact, very difficult to prove. Both Mr. Young as well as Mr. King stated without equivocation that the settlement proffered to this Court contains benefits to the Plaintiffs substantially greater than those which were capable of being proved by the Plaintiffs with reasonable certainty even if liability could be established against the Defendants. While the opponents of the Settlement Agreement argue that a very substantial sum of money could be recovered for the claims of beach erosion and dredging, the individuals opposing the Settlement Agreement proffered no expert testimony other than that of an accountant. The opponents of the Settlement Agreement chose not to offer any expert testimony from a trial lawyer with respect to damages which could be proven at trial with any reasonable certainty. Based on the totality of the evidence the Court finds the range of damages which could have been recovered at trial were less than the economic benefits which the Plaintiffs will receive if the settlement is approved by this Court.

RANGE OF POSSIBLE RECOVERY

In view of the fact that this Court specifically finds that the Settlement Agreement which is before this Court is at the higher end of the range of possible recovery, it is therefore unnecessary for this Court to consider the relative point on or below which the range of possible recovery may be considered fair and adequate.

THE COMPLEXITY, EXPENSE AND DURATION OF LITIGATION

The un rebutted expert testimony received by this Court concerning the expense of litigation was from Wm R. King. Mr. King testified that the expense of litigation including legal fees, expert witness fees, consulting fees and other costs of litigation would require an additional \$500,000 to \$750,000 if this matter were to proceed to trial. Further the un rebutted testimony of both Messrs. King, Buckley and Young, clearly establishes that the litigation would be extremely complex for the Plaintiffs in light of the fact that there is little if any precedential authority for the recovery of beach erosion expenses or dredging expenses against the Developer. Therefore, the legal theories and computation of damages based on conflicting engineering studies, which the Plaintiffs must advance in order to prevail at trial, are in some respects novel and not well established by the current state of the law.

SUBSTANCE AND AMOUNT OF OPPOSITION

This Court has received testimony that the proposed settlement was approved by a vote by the vast majority of the owners in March of this year. The un rebutted testimony was that the March vote favored approval by an overwhelming majority of those residents voting. In the August 14 and 29 Orders of this Court, this Court requested an additional vote for informational purposes. The result of this vote disclosed that approximately 62% of the residents voting were in favor of approval of the Settlement Agreement and approximately 36% of those voting were against the Settlement

Agreement. Further, this Court takes note of the fact that approximately 78% of all residents voted. Although this Court understands that 36% of the residents are opposed to the Settlement Agreement, this Court is also concerned that if this Court does not approve the Settlement Agreement, the 62% of the residents who voted in favor of the Settlement Agreement will be deprived of the benefits contained within the Settlement Agreement. This Court further takes note that the opponents of the Settlement Agreement who offered testimony to this Court were overwhelmingly concerned with the issue of potential fines and penalties which might be levied by certain permitting agencies such as South Florida Water Management District and also were concerned about giving up millions of dollars of claims against the Defendant. However, the expert testimony received by this Court from attorney Alfred J. Malefatto, who this court recognizes as an expert in this area of law, was that the exposure to fines and penalties is clearly not a substantial risk. Further this Court notes that there was no competent expert testimony contravening Mr. Malefatto's testimony. This Court is concerned that the opposition to the Settlement Agreement is founded upon issues of concern which were proven by Mr. Malefatto's testimony to be of minimal risk.

STAGE OF THE PROCEEDINGS AT WHICH SETTLEMENT WAS ACHIEVED

This Court received substantial testimony from Mr. King, Mr. Buckley, Mr. Young and Mr. Hansen concerning the stage of the litigation. The unrebutted testimony from Mr. Hansen, Mr. King and Mr. Buckley clearly disclosed that all documents requested by the Plaintiffs in this litigation were provided to the Plaintiffs and were analyzed by the Plaintiffs' financial and engineering consultants, one of which was formerly a member of the accounting firm of Price Waterhouse. Further, the unrebutted testimony was that the Plaintiffs expended in excess of \$500,000 in professional fees in order to assess the likelihood of success in proving liability as well as the quantification of the value of all claims which were available to the Plaintiff. This Court specifically finds that the Plaintiffs did

in fact garner sufficient data and information to make intelligent well-informed decisions about the probability of success of their claims and the range of damages which would be provable at trial. Further the unrebutted testimony of attorney, Michael Buckley, counsel for the Defendant was that he specifically directed his clients to provide all data and information to the Plaintiffs and that all documents requested were provided to the Plaintiffs. Further, the unrebutted testimony of Messrs. Hansen, King and Jaffe was that all documents and data were analyzed by the Board and their experts.

The Court hereby approves the Settlement Agreement and hereby adopts it as the Judgment of this Court in connection with this matter and the parties hereto are directed to comply therewith. The Court retains jurisdiction to enforce compliance should that become necessary. As per the agreement of the parties, each side shall bear their own fees and costs in connection with this matter.

DONE AND ORDERED in Chambers on this 29th day of October, 1996.


CYNTHIA ANGELOS, CIRCUIT JUDGE

Conformed Copies to:

Noel A. Bobko, Esquire
Michael B. Buckley, Esquire
William Reeves King, Esquire
Dennis E. Murray, Sr., Esquire
Steve Pardo, Esquire

Enclosure (3)
to Exhibit Q
Sailfish Point
Transfer Application
Page 2 of 2

IN THE CIRCUIT COURT OF THE
NINETEENTH JUDICIAL CIRCUIT IN
AND FOR MARTIN COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 94-489 CA

SAILFISH POINT OWNERS
REPRESENTATIVES BY JEFF JAFFE,
Chairman, HAROLD HANSEN, Vice
Chairman, and MICHAEL DELCOLLO
Member,

Plaintiffs,

NOTICE OF APPEAL

v.

SAILFISH POINT, INC., MOBIL LAND
DEVELOPMENT CORP., SAILFISH
POINT MARINA CORPORATION,
SAILFISH POINT UTILITY
CORPORATION, and SAILFISH
PROPERTY OWNERS AND
COUNTRY CLUB ASSOCIATION, INC.,

Defendants,

NOTICE IS HEREBY GIVEN that the following individual Plaintiff class members, known as the Concerned Class Members, appeal to the Fourth District Court of Appeal the order of this Court rendered in this cause on October 29, 1996: Mr. Warren Andrews, Mr. Willard Askew, Mr. Emil Baer, Mr. William Cassel, Mr. William Dobson, Mr. Garland Duke, Mr. Laurence Fordham, Mr. Chuck Knoph, Ms. Nancy Koppel, Mr. Jack MacDonald, Mr. Maxwell Rice, Dr. Arnold Simon and Mr. Baird Tewksbury. The nature of the October 29, 1996 order is an order on the Plaintiff class' and Defendant's motion to approve the Settlement Agreement as drafted between the Plaintiff class and the Defendants in the above styled lawsuit. The Concerned Class Members further appeal to the Fourth District Court of Appeal the order of this Court

rendered in this cause on November 13, 1996. The nature of November 13, 1996 order is an agreed order on the Plaintiff class' motion for summary judgment and Defendants' cross motion for summary judgment as to Count VI of the Plaintiff class' complaint, such motion having been filed by the Plaintiff class and the Defendants in the above styled lawsuit. A conformed copy of both aforementioned orders are attached hereto.

Respectfully submitted,

ZARCO & PARDO, P.A.
Attorneys for Concerned Class Members
NationsBank Tower at Int'l Place,
27th Floor
100 S.E. 2nd Street
Miami, Florida 33131
Telephone (305) 374-5418

By: EL. G.
STEVEAN J. PARDO
Florida Bar No. 438626
ELISSA GAINSBURG
Florida Bar No. 995444

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. mail to NOEL BOBKO, McCARTHY, SUMMERS, BOBKO et al., 2081 E. Ocean Blvd., Stuart, Florida 34996, WM. REEVES KING, ESQ.; ST. JOHN, KING & DICKER, 5000 Australian Avenue South, West Palm Beach, Florida 33401, and MICHAEL BUCKLEY, ESQUIRE; FOWLER, WHITE, et al., 100 S.E. 2nd Street, 17th Floor, Miami, Florida 33131 this 26 day of November, 1996.

By: EL. G.
STEVEAN J. PARDO

IN THE CIRCUIT COURT OF THE 19TH
JUDICIAL CIRCUIT, IN AND FOR
MARTIN COUNTY, FLORIDA.

CASE NO.: 94-489 CA
JUDGE: CYNTHIA ANGELOS
CLASS REPRESENTATION

SAILFISH POINT OWNERS
REPRESENTATIVES BY JEFF JAFFE,
Chairman, HAROLD HANSEN, Vice
Chairman, and MICHAEL DEL COLLO,
Member, and SAILFISH PROPERTY OWNERS
AND COUNTRY CLUB ASSOCIATION, INC.

Plaintiffs,

vs.

SAILFISH POINT INC., MOBIL LAND
DEVELOPMENT CORP., SAILFISH
POINT MARINA CORPORATION, and
SAILFISH POINT UTILITY CORPORATION,

Defendants.

AGREED ORDER ON MOTION FOR SUMMARY JUDGMENT AND DEFENDANTS'
CROSS-MOTION FOR SUMMARY JUDGMENT AS TO COUNT VI OF THE
COMPLAINT

THIS MATTER is before the Court on Plaintiffs' Motion for Summary Judgment and Defendants' Cross-Motion For Summary Judgment as to Count VI of the Complaint. Count VI of the Complaint seeks judgment declaring that the Sales Center Parcel may not be used for purposes other than marketing Sailfish Point property, unless Developer retains title to said Parcel, and such other use as is approved by Martin County and for supplementary relief enjoining Developer from conveying title to the Sales Center Parcel to any third party not identified in the Declaration as being authorized to take title to said Sales Center Parcel.

In their Motion, the parties recite the relevant portions of the controlling documents and conclude that, when read together, the provisions of the documents are ambiguous and are susceptible to a reasonable construction which permits the Developer to market and convey the Sales Center Parcel, as an ocean-front lot, at such time as the Developer no longer desires to use it for a sales center. They move for a declaratory judgment consistent with such interpretation.

Upon review of the Motion and the pertinent provisions of the governing documents recited in the Motion, the Court concurs that those provisions create an ambiguity and that the interpretation suggested by the parties in the Motion is reasonable, particularly since the Sales Center Parcel is an ocean-front lot which has already been zoned by the County for single-family residential use.

Article III Section 6 of the Declaration of Protective Covenants and Restrictions for Sailfish Point (the "Declaration") is the only provision which conflicts with the interpretation suggested by the parties. That section provides that the Developer reserves the option to retain title to the Sales Center Parcel or to convey any part or parts thereof to the Sailfish Point Property Owners' Association (the "Association"), any condominium association or any builder, but at all times subject to the provisions of Article IX regarding uses. Since Article IX Section 9 and the other provisions authorize the Developer to make other uses of that Parcel, the Court adopts the interpretation that this provision would apply only in the event the Developer desires to convey the Parcel for continued use as a sales center. The Developer has the choice of conveying the Sales Center Parcel and sales operation to the Association, a condominium association or any builder, or to retain title to the Sales Center Parcel, cease using that Parcel as a sales center and use it for any purpose permitted by the County.

Therefore, it is hereby

ORDERED AND ADJUDGED that Plaintiffs' Motion for Summary Judgment and Defendants' Cross-Motion For Summary Judgment as to Count VI of the Complaint be and the same is hereby **GRANTED** and judgment is entered declaring that Article III Section 6 and

Article IX Section 9 of the Declaration and the Supplemental Declarations of Protective Covenants and Restrictions for Plats No. 1 and 13 Sailfish Point Planned Urban Development ("PUD") are ambiguous as to the transfer of title and uses permitted of the Sales Center Parcel, and that they are hereby construed as permitting the Sales Center Parcel to be used as a single-family residential lot and conveyed to any qualified owner or purchaser, subject to all other terms, conditions and restrictions applicable to the other lots in Plat 13 of the PUD.

DONE AND ORDERED in Chambers, at Stuart, Martin County, Florida, on this 13 day of November, 1996.


CYNTHIA ANGELOS, CIRCUIT JUDGE

Copies furnished to:

Noel A. Bobko, Esquire
Michael B. Buckley, Esquire
William Reeves King, Esquire
Dennis E. Murray, Sr., Esquire
Steve Pardo, Esquire
Lauren Fordham

SAILFISH POINT PROPERTY OWNERS'
AND COUNTRY CLUB ASSOCIATION, INC.
BOARD OF DIRECTORS
1996

EXECUTIVE COMMITTEE

President & CEO	Harold R. Hansen P. O. Box 942 Windemere Drive Kennebunkport, ME 04046
Vice President/Treasurer	James I. Spiegel 97 Barnes Road Stamford, CT 06902
Vice President	Michael Del Collo 3210 St. Davids Road Newtown Square, PA 19073
Secretary	Sonia Nelson 3001 S.E. Island Point Lane, #11 Stuart, FL 34996
Chairman Emeritus	Jeff Jaffe 28 Georgetowne North Greenwich, CT 06831

DIRECTORS

Ronald R. Cauley	2808 S.E. Dune Drive, #1205 Stuart, FL 34996
Jay P. Dawley	6834 S.E. Isle Way Stuart, FL 34996
Salvatore Simeone	60 Cliff Road Weston, MA 02193
Richard Whittington	1924 S.E. Sailfish Point Boulevard Stuart, FL 34996

Dean W. Crawford	6901 S.E. North Marina Way Stuart, FL 34996
Alan J. Golden	4 Carriage Hill Drive Morristown, NJ 07960
George E. Mayer	P. O. Box 2006 Highland, NC 28741
Donald MacNaughton	195 Fairfield Avenue, Suite 1C West Caldwell, NJ 07006-6419
Norman Rich	1925 S.E. Sailfish Point Boulevard Stuart, FL 34996
Gloria J. Wolfe	6900 S.E. Harbor Circle Stuart, FL 34996
G. Thomas LaFon, Jr.	Sailfish Point Realty Corporation 1755 S.E. Sailfish Point Boulevard Stuart, FL 34996

kfk
www47

The above named persons will also constitute the
Board of Directors for Sailfish Point Service Corporation.

EVIDENCE THAT THE UTILITY OWNS THE LAND WHERE
THE TREATMENT FACILITIES ARE LOCATED

This will be a late filed exhibit.

990076-WS

NOTICE OF JOINT APPLICATION FOR TRANSFER OF MAJORITY ORGANIZATIONAL CONTROL AND TRANSFER OF WATER AND WASTEWATER CERTIFICATES AND FACILITIES PURSUANT TO SECTION 367.071, FLORIDA STATUTES

97 JAN 27 11:48 MAIL ROOM

LEGAL NOTICE

Notice is hereby given on January 22, 1997, pursuant to Section 367.071, Florida Statutes, of the joint application for transfer of Sailfish Point Utility Corporation, its assets and its Water Certificate No. 394-W and Wastewater Certificate No. 335-S to the Sailfish Point Service Corporation, to provide water and wastewater services to the following described territory in Martin County, Florida, in the following portions of fractional Sections 8, 9, 16 and 17, Township 38 South, Range 42 East:

Sections 8 and 9

The south 3,000 feet of Section 8 lying on Hutchinson Island between the Indian River on the west and the Atlantic Ocean on the east, and that portion of Section 9 lying on Hutchinson Island, west of the Atlantic Ocean.

Sections 16 and 17

All of Sections 16 and 17 lying on Hutchinson Island between the Indian River on the west, the Atlantic Ocean on the east and the St. Lucie Inlet on the south.

The transferor is Sailfish Point, Inc., c/o Sailfish Point Utility Corporation, 6929 S.E. South Marina Way, Stuart, Florida 34996. The transferee is Sailfish Point Service Corporation, a not-for-profit wholly owned subsidiary of the Sailfish Point Property Owners' and Country Club Association, Inc., 2201 S.E. Sailfish Point Blvd., Stuart, Florida 34996.

Any objection to the Application must be made in writing and filed with the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399, within thirty (30) days from the date hereof. A copy of said objection should be mailed to the attorneys for both applicants at:

Ben E. Girtman, Esq.
1020 East Lafayette Street
Suite 207
Tallahassee, Florida 32301
Attorney for Transferor

B. Kenneth Gatlin, Esq.
Gatlin, Schiefelbein & Cowdery, P.A.
1709-D Mahan Drive
Tallahassee, Florida 32308
Attorney for Transferee

Legal - 1
WAW - 1
SEC - 1

HRB:ahb
33070039
01/20/97

DOCUMENT NUMBER-DATE
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FPSC-RECORDS/REPORTING