

ORIGINAL

COUNTY OF CHARLOTTE

OFFICE OF THE COUNTY ATTORNEY

18500 Murdock Circle
Port Charlotte, Florida 33948-1094
Phone: (941) 743-1330
FAX: (941) 743-1550

April 16, 1999



RENEE FRANCIS LEE
COUNTY ATTORNEY

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

99 APR 19 11:11:19


Re: Docket No. 981288-WU
Withdrawal of Objection to the Application of Town & Country Utility Co.

Dear Ms. Bayo:

Enclosed are the original and fifteen (15) copies of Charlotte County's Objection to the Application of Town & Country Utility Company in the above-referenced docket.

Please acknowledge receipt of the foregoing by stamping the enclosed extra copy of this letter and returning same to me at your convenience. Thank you for your assistance in this matter.

RECEIVED & FILED


FPSC BUREAU OF RECORDS

Sincerely,



Martha Young Burton
Assistant County Attorney

MYB/am
Enclosures

cc: Renee Francis Lee, County Attorney

- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG _____
- MAS 3
- OPC _____
- RRR _____
- SEC 1
- WAW _____
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LR98-511

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: APPLICATION OF TOWN & COUNTRY
UTILITY COMPANY FOR AN ORIGINAL
WATER CERTIFICATE

Docket No. 981288-WU

WITHDRAWAL OF OBJECTION OF THE BOARD OF COUNTY
COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA, TO THE
APPLICATION OF TOWN & COUNTRY UTILITY COMPANY FOR
AN ORIGINAL WATER CERTIFICATE AND REQUEST FOR
FORMAL HEARING.

The BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY,
FLORIDA, (hereinafter referred to as the "Board"), hereby files this Withdrawal of
Objection to the Application of Town & Country Utility Company (hereinafter referred to as
"Applicant"), for an Original Water Certificate, and states that:

1. This Withdrawal of Objection relates to the Application of Town & Country
Utility Company for an Original Water Certificate filed October 8, 1998 (hereinafter referred
to as the "Application"), and the Board's Objection to the Application filed November 6,
1998 (hereinafter referred to as the "Objection").


2. The Board is the governing body of Charlotte County, Florida, a county
affected by the Application.

3. On April 13, 1999, the Board and the Applicant entered into a Stipulated
Settlement Agreement wherein the Board agreed to withdraw its Objection to the
Application in the above-referenced Docket, in return for certain terms and conditions

contained in the Agreement, which is attached hereto as Exhibit "A" and incorporated herein by reference.

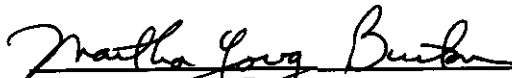
4. Wherefore, the Board hereby officially withdraws its Objection.

Respectfully submitted,


Martha Young Burton
Assistant County Attorney
Fla. Bar #398179
Attorney for Charlotte County, Florida
Charlotte County Attorney's Office
18500 Murdock Circle
Port Charlotte, FL 33948-1094
(941) 743-1330

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by U.S. Mail to Blanca S. Bayo, F. Marshall Deterding, Esq., Roseanne Gervasi, Esq., Earl Drayton Farr, Esq., Michael P. Haymans, Esq., David Owens, Esq., and Bernard Piawah, Planner IV, Division of Community Planning, this 16th day of April, 1999.


Martha Young Burton

SERVICE LIST

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

Roseanne Gervasi, Esq.
Division of Legal Services
Fla. Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

F. Marshall Deterding, Esq.
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, FL 32301

Earl Drayton Farr, Jr., Esq.
Farr, Farr, Emerich, Sifrit,
Hackett & Carr, P.A.
P. O. Drawer 511447
Punta Gorda, FL 33951-1447

Michael P. Haymans, Esq.
Farr, Farr, Emerich, Sifrit,
Hackett & Carr, P.A.
115 West Olympia Avenue
Punta Gorda, FL 33950

David Owens, Esq.
Assistant County Attorney
Lee County
P. O. Box 398
Ft. Myers, FL 33902-0398

Bernard Piawah, Planner IV
Division of Community Planning
Florida Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

**STATE OF FLORIDA
BEFORE THE PUBLIC SERVICE COMMISSION**

In re: APPLICATION OF TOWN & COUNTRY
UTILITIES COMPANY TO OPERATE A WATER
UTILITY IN CHARLOTTE AND LEE COUNTIES,
FLORIDA

Docket No. 981288-WU

**STIPULATED SETTLEMENT AGREEMENT BETWEEN
CHARLOTTE COUNTY AND TOWN AND COUNTRY
UTILITIES COMPANY**

Charlotte County, a political subdivision of the State of Florida ("Charlotte"), Town & Country Utilities Company, a Florida corporation ("Utilities"), and Babcock Florida Company, a Florida corporation ("Babcock") hereby enter into this Stipulated Settlement Agreement in which Charlotte agrees to and does hereby withdraw its Request for Formal Hearing and its Objection to the Florida Public Service Commission (FPSC) Application for an Original Certificate in Charlotte and Lee Counties, Florida, in Docket No. 981288-WU and shall not otherwise object to or oppose the said certification on the following facts, terms and conditions:

1. On or about October 8, 1998, Utilities filed its Notice and Application for an Original Water Certificate in Charlotte and Lee Counties, Florida, with the FPSC.
2. Babcock owns the property that is proposed for Utilities' water certification, which includes the property known as Telegraph Cypress Swamp.
3. On or about November 6, 1998, Charlotte filed an Objection of the Board of County Commissioners of Charlotte County, Florida, to the Application of Town & Country Utilities Company for an Original Water Certificate and Request for Formal Hearing.

4. On March 2, 1999, the Board of County Commissioners of Charlotte County, by motion and vote, agreed to withdraw its objection to Utilities' Application for Original Water Certificate in said Docket No. 981288-WU before the FPSC upon Utilities and Babcock agreeing to maintain the integrity of the eco-system known as Telegraph Cypress Swamp.

5. Babcock currently measures rainfall and the water elevation of the pool on the upstream (north) side of Big Island Dike at the westerly water control structure for Telegraph Cypress Swamp. Rainfall is measured with a FIT model RG2000-C tipping bucket gauge, and pool levels are continuously recorded with a stage recorder metritape connected to a CR-10 data logger. Utilities and Babcock shall continue to fund and accomplish the monitoring of rainfall and the monitoring of the Telegraph Cypress Swamp pool elevation.

6. Measurement of rainfall and related Telegraph Cypress Swamp pool elevations at the Big Island structure will allow a comparison of related hydrological values to insure protection of the integrity of the Telegraph Cypress Swamp. A copy of rainfall and pool water elevation graphs from 1997-1998 are attached hereto and made a part hereof, and rainfall and pool water elevation graphs will be submitted to Charlotte on an annual basis.

7. Babcock, Utilities, and Charlotte acknowledge and agree that the Telegraph Cypress Swamp eco-system is a significant ecological, recreational, and economic resource, and further agree to use the permitting programs of the South Florida Water Management District ("SFWMD") to help ensure the long term viability and productivity of this resource. Utilities hereby agrees that it shall operate the water utility approved by the FPSC so that its operations shall not adversely affect the integrity of the eco-system known as Telegraph Cypress Swamp.

8. Telegraph Cypress Swamp, Babcock's property, and Utilities' proposed certification area are all within the SFWMD and the Telegraph Cypress Water Management District. Babcock, Utilities, and Utilities' proposed water certification area are subject to rules and regulations concerning the consumptive use of water, which rules and regulations contemplate the effect upon natural systems, including Telegraph Cypress Swamp, of such water use.

9. Babcock and Utilities acknowledge that this Agreement does not waive Charlotte's right to participate in the SFWMD permit process, up to and including possible challenge of any permit issued by SFWMD for consumptive use of water in association with Utilities' operations if Charlotte's Board of County Commissioners believes that such permit fails to adequately address or protect the Telegraph Cypress Swamp eco-system.

10. Babcock and Utilities acknowledge and agree that the mere availability of water and a FPSC-certificated utility will not necessarily provide justification for development approval in eastern Charlotte.

11. The Southwest Florida Regional Planning Council has determined that Utilities' Application for Original Water Certificate in Charlotte and Lee Counties is regionally significant and consistent with adopted goals, objectives and policies of the Strategic Regional Policy Plan.

12. Babcock and Utilities agree that any subdivision approval in Charlotte within Utilities' certificated area as approved by the FPSC will require a Rural Communities Comprehensive Plan designation including a Rural Community master development plan for rural and conservation areas located outside the Urban Service Area, which designation shall be created by large scale plan amendment consistent with objective 2.7 (Rural Community) of the 1997-2010 Future Land Use

Element, or other appropriate and acceptable Future Land Use Map designation consistent with the Goals, Objectives, and Policies of the Charlotte County Comprehensive Plan.

13. This Agreement shall be binding upon the parties and their representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 13th day of April, 1999.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By Mac V. Horton
Mac V. Horton, Chairman

ATTEST:
Barbara T. Scott, Clerk of
Circuit Court and Ex-officio
Clerk to the Board of County
Commissioners

By Agnes Ricketts
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:
Renee Francis Lee
Renee Francis Lee, County Attorney
NB

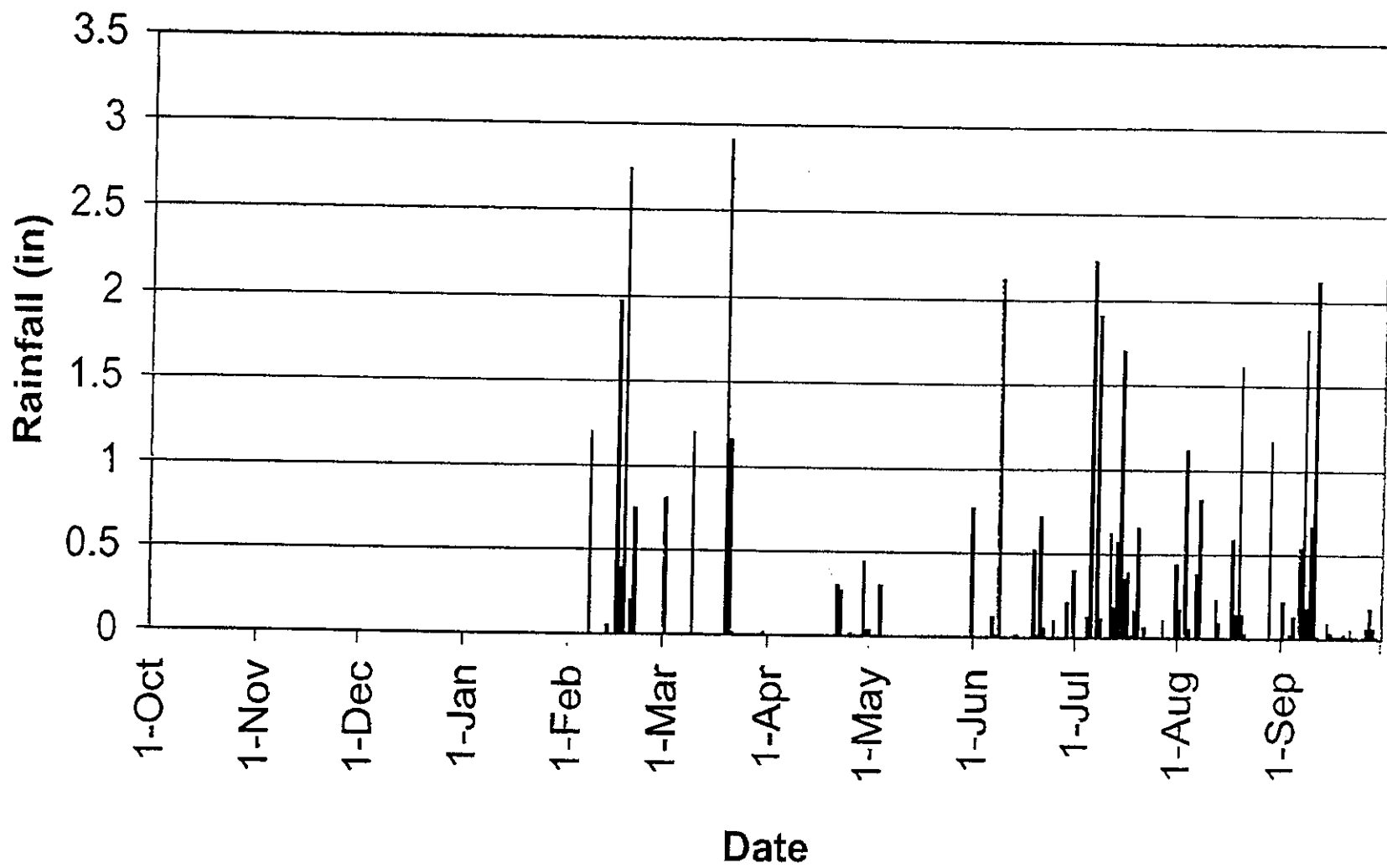
ATTEST:
Earl Drayton Ferr, Jr.
Earl Drayton Ferr, Jr., Secretary

BABCOCK FLORIDA COMPANY
By: Richard S. Cuda
Richard S. Cuda, President

ATTEST:
Richard S. Cuda
Secretary

TOWN & COUNTRY UTILITIES COMPANY
By: Richard S. Cuda
Richard S. Cuda, President

Daily Rainfall Big Island Dike 1997-1998



Big Island Water Surface Elevation

