

# BONITA COUNTRY CLUB UTILITIES, INC.

10200 Maddox Lane • Bonita Springs, Florida 34135

Accounting Office (941) 992-6564 • Wastewater Plant (941) 998-9949

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MAIL ROOM

January 7, 2000

Blanca Bayo  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

RE: Docket No. 990975-SU

Dear Ms. Bayo:

I am in receipt of a copy of a letter and Motion for Summary Final Order sent to you from David Erwin to which I would like to respond as follows:

1. Bonita Country Club Utilities, Inc. (BCCU) obtained a Certificate No. 281-S from the Commission and for over fifteen years provided wastewater service in Lee County as a Class B utility. Over those fifteen years many improvements to the system were made at a cost to the utility, as well as others, without ever being reimbursed, because of the low rates we received.
2. It is true that Bonita Country Club Utilities obtained a loan from Northern Trust Bank for the purpose of building a new wastewater plant. The original steel plant had completely rusted away and became unsafe for operation. Bonita Country Club Utilities also borrowed money from others to the tune of another \$400,000.00. Which included the non-payment of rent for the land as well as the non-payment of the cost of the land that the plant is on. The court ruled that anything that Bonita Country Club Utilities owns is what Northern Trust Bank would be able to foreclose on. As I see it, the land and all of the plant and equipment that was built and put into public service, was no longer owned by anyone, except the people in its service area that were being served by the equipment. If this were true, then Northern Trust Bank or the company they transferred it to would not have any claim to any of the equipment. Bonita Country Club Utilities no longer owned that property and would only have the income from the rates to reimburse for the equipment and materials purchased. The problem for Bonita Country Club Utilities was the revenue did not meet the expenses necessary to pay for the equipment. Northern Trust should only have a claim against Bonita Country Club Utilities income that it would receive. Northern Trust has no reason to operate this utility. All Northern Trust wants to do is sell it and get its money back or possible even a profit. Bonita Country Club on the other hand has nurtured and operated the utility for well over fifteen years and did everything possible to improve it at a cost higher than the rates it receive.

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FPSC-RECORDS/REPORTING

3. Northern Trust Bank upon foreclosure purchased the supposed sale of the property at a cost of \$1,000.00 and has filed documents for a deficiency judgment. This does not sound like a reason to want to own and operate the utility. The court ruling only gave Northern Trust the right to all properties belonging to Bonita Country Club Utilities, not the properties that we dedicated to public service which no one could own.
4. Realnor Hallandale (Northern Trust) did not have a statutory obligation to continue to provide service to the customers of Bonita Country Club Utilities. Bonita Country Club Utilities was managing and operating the wastewater facility with engineers it had on the payroll who were pushed off by Northern Trust and in place hired a company to operate the plant at a cost of three times the cost Bonita Country Club Utilities was currently paying. The operating company for Northern Trust (Severn Trent) is currently under orders by the Department of Environmental Protection for numerous violations (see enclosures). This company did not even know about the monitoring wells that had to be periodically tested. Severn Trent has also billed the Bonita Country Club Utility customers without even having that authorization from the commission to do so. They, to this day, are still holding money that was due Bonita Country Club Utilities. To transfer Certificate 281-S from Bonita Country Club Utilities to Realnor Hallandale would be very detrimental to the people served by the utility and would only push costs up. Realnor Hallandale's interest in owning this certificate is but to sell it.
5. Michael J. Miceli, as president of Bonita Country Club Utilities objects to the application of transfer due to the fact that Realnor Hallandale does not physically own all of the treatment facility, but is owned by the people in the service area as stated above. The commission has the right to assign the certificate only to benefit the people being served in the service area and not because Realnor Hallandale (Northern Trust) is owed money by Bonita Country Club Utilities.
6. See information above.
7. All of the supposed assets of Bonita Country Club Utilities again could not be the equipment that was put into public service. Bonita Country Club Utilities never owned them after that.
8. The factual basis for the objection to the transfer application of Certificate No 281-S has not been resolved by the Twentieth Judicial Circuit Court. Again only those assets that did belong to Bonita Country Club Utilities. Because Bonita Country Club Utilities had dedicated all of the equipment to public service and was operating the plant and the whole facility without any violations by the Department of Environmental Protection's agency. Bonita Country Club Utilities has always maintained a good service to the customer base and at a lower cost than Realnor Hallandale is charging.

Therefore and in consideration of the above Bonita Country Club Utilities would like to keep its Certificate 281-S. We would like the Commission to allow Bonita Country Club Utilities to ultimately pay Realnor Hallandale (Northern Trust) their costs and their purchase over a time period. This would require Bonita Country Club Utilities to get some kind of increase in its Service Availability Charges to pay off all of the money that was used to build the new plant.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Miceli". The signature is written in a cursive, somewhat stylized font.

Michael J. Miceli  
President



Jeb Bush  
Governor

# Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

October 26, 1999

Grant, Fridkin, Pearson, Athan, and Crown  
Attn: Keith Wickenden  
5551 Ridgewood Dr. Suite 501  
Naples, FL 34108

Re: Lee County - DW  
Bonita County Club WWTP  
FLA014442

Dear Mr. Wickenden:

A field inspection of the above referenced WWTP on October 13, 1999 indicates that you may be in violation of Chapter 403, Florida Statutes and the rules promulgated thereunder. The resulting observations are listed below:

1. One of the facility's clarifiers was not functioning properly. The boom is in need of repair. Florida Administrative Code (F.A.C.) Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.
2. The air diffusers in the aeration tanks and digester were not being maintained and were not functioning as intended. F.A.C. Rule 62-600.410(6) requires that all facilities and equipment necessary for the treatment, reuse, and disposal of domestic wastewater or domestic wastewater residuals shall be maintained at a minimum, so as to function as intended.
3. The cover on the bar screen had been removed and a strong sewage odor was detected emanating from the wastewater treatment plant. F.A.C. Rule 62-600.410 (8) states that in the event that the treatment facilities or equipment no longer function as intended, are no longer safe in terms of public health and safety, or odor, noise, aerosol drift, or lighting adversely affect the

Continued

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- neighboring developed areas at the levels prohibited by Rule 62-600.400(2)(a), F.A.C., corrective action (which may include additional maintenance or modification of the treatment plant) shall be taken by the permittee. Other corrective action may be required to ensure compliance with the rules of the Department.
4. Dried residuals were found being stored at the facility. Conversations with on-site personnel indicated that the dried residuals had been on site and had not been removed for proper disposal for approximately two years. The residual storage site is not adequate for proper storage of wastewater residuals. The storage site has the potential to improperly discharge residuals to adjacent ground surfaces. F.A.C. Rule 62-640.400(5) states that residuals shall not be disposed of or applied to land except in accordance with the provisions of this chapter. F.A.C. Rule 62-640.300(4) states that Storage of residuals or other solids at an existing facility shall require prior written notification to the Department if the storage lasts longer than 30 days, or if the storage provisions were not addressed in the facility's preliminary design report.
  5. The percolation ponds are overgrown with vegetation, and wastewater residuals may also be deposited in the ponds. F.A.C. 62-610.523(6) states that rapid infiltration basins, percolation ponds, basins, trenches, or cells shall be routinely maintained to control vegetation growth and to maintain percolation capability by scarification or removal of deposited solids.
  6. A review of the facility's collection system found many of the lift stations not operating as intended. Some of the lift stations are missing two functional pumps, visual and audible alarms, access control, and inflow and infiltration protection. F.A.C. Rule 62-604.500(3) states all equipment necessary for the collection/transmission of domestic wastewater, including equipment provided pursuant to Rule 62-604.400(2) F.A.C., shall be maintained to function as intended.
  7. An approved backflow preventer was not observed on the potable water line supplying the WWTP in accordance with F.A.C. Rule 62-555.360(3). Please contact **Bill Allen of Lee County Public Health Engineering section (941) 939-4245** in order to discuss the requirements for backflow prevention at this facility.

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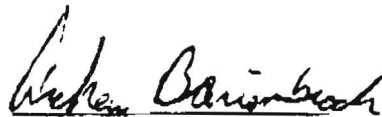
- 8 Conversation with on-site personnel indicated that one of the main lift stations pumps had failed and a portable pump was brought in to move the flow through the collection system. The Department was also notified that the chlorine contact chamber had been pumped due the high volume of solids collected in it, the facility had a high volume of solids in the aeration tanks and digester, the clarifier boom was not functioning, the lighting at the facility is not functioning, and one of the blowers was not functioning properly. A review of Department files indicate that these occurrences and the condition of the system were not reported to the Department by the operator. F.A.C. Rule 61E12-41.010 (5) states an operator is responsible for performing treatment plant operation and maintenance duties in a responsible and professional manner consistent with standard operating practices the duties shall be the following: report to the permittee or supplier of water and the Department of Environmental protection and, if applicable, the local regulatory agency, as soon as possible, but within 24 hours following the occurrence of any serious plant breakdown or condition causing or likely to cause: unsafe treatment plant operation or any discharge of water or wastewater not in accordance with rules 62-550.101 and 62-600.100 F.A.C.

You are advised that any activity that may contribute to violations of the above described statutes and rules should cease immediately. Continued operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties pursuant to Sections 403.141 and 403.161, Florida Statutes.

Please contact Keith Kleinmann at (941) 332-6975 within 15 days of receipt of this letter to arrange a meeting to discuss the issues raised in this letter.

If you have any questions, please do not hesitate to call Keith Kleinmann at (941) 332-6975. Your cooperation is appreciated.

Sincerely,



Andrew R. Barienbrock  
Environmental Manager

ARB/KK/jmo

cc: ST  
Richard Redemann PSC  
Valerie Stott